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*California speeches*

S P E E C H

OF

HON. EDW. D. BAKER,

U. S. Senator from Oregon,

DELIVERED AT

A REPUBLICAN MASS MEETING,

Held at the American Theatre, in the City of San Francisco,

ON

Friday Evening, October 26th, 1860.

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REPORTED BY SUMNER AND CUTTER.

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SAN FRANCISCO:  
COMMERCIAL BOOK AND JOB STEAM PRINTING ESTABLISHMENT,

127 and 129 Sansome Street.

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1860.

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### A REPUBLICAN MASS MEETING,

Held at the American Theatre, in the City of San Francisco,

ON

Friday Evening, October 20th, 1860.

REPORTED BY SUMNER AND CUTLER.

CALIFORNIA

SAN FRANCISCO

COMMERCIAL BOOK AND JOB PRINTING ESTABLISHMENT,  
127 and 129 Broadway Street.

1860.



# SPEECH OF HON. E. D. BAKER.

On the evening before named, the American Theatre was crowded to repletion with the largest and most brilliant audience ever assembled at any political gathering on the Pacific coast. Not less than 4000 persons were packed within the walls of the Theatre, and not less than twice that number were disappointed in their effort to gain admittance. The dress circle and the rear of the stage were occupied by ladies and gentlemen accompanying them, and in every other part of the house all available space was filled by the mighty assemblage.

At 8 o'clock, B. W. Hathaway, Chairman of the Republican State Central Committee, under whose auspices the meeting was held, came forward to the footlights and said: As Chairman of the State Central Committee, it devolves upon me to call this meeting to order.

Ladies and Gentlemen: We have met here to-night to listen to the first Republican who has ever been elected to a distinguished position on the Pacific coast, but unless the signs of the times do not deceive us, he will not be the last. (Great applause.) Our guest is one of the great champions of Freedom, the orator of the Pacific coast. I perceive that you are extremely anxious to have the meeting proceed, and I propose the HON. E. L. SULLIVAN as your Chairman.

Mr. Sullivan's nomination was indorsed unanimously by the audience; and in response thereto Mr. Sullivan came forward, amid tremendous applause, and said:

LADIES AND GENTLEMEN: I appreciate highly the honor of being called to preside over so magnificent an assemblage of fair women and brave men. We meet to-night to exchange congratulations over the glorious political news from the East, and also to welcome our distinguished fellow citizen from Oregon. (Cheers.) When we remember, fellow citizens, how short a time has passed since the Republican party was bitterly assailed by storms of opprobrium and contumely, and now behold that same party on the full and swelling tide of victory, we may well believe that our cause is just and that Providence is on our side (Great applause), and I think we may properly take up the war-cry of the old crusaders: "God wills it; God with us." (Tremendous cheering.) The victory which we shall achieve in November next, will not bring with it tears or blood, or one human cry of despair; but, on the contrary, that day of Freedom will be hailed by all good and true hearts of every land, and by the oppressed of every nation. (Great cheers.)

I will not detain you longer, ladies and gentlemen, as you have a great treat in store for you to-night.

Mr. Sullivan then read the following list of Vice-Presidents and Secretaries placed in nomination by Mr. Hathaway, and indorsed unanimously by the meeting:

## VICE-PRESIDENTS:

ASA T. LAWTON,	GEORGE ALEXANDER,
JAMES L. RIDDLE,	ALEX. G. ABELL,
B. C. DONNELLAN,	J. W. CUDWORTH,
SILAS SELLECK,	HENRY THOMPSON,
SAMUEL THOMSON,	THEODORE A. MUDGE,
F. S. BALCH,	ALFRED J. ELLIS,
GEO. W. CLARK,	WILLIAM C. PARKER,
MICHAEL HEVERIN,	THEODORE J. WOOD,
WILLIAM SCHMOLZ,	CHAS. A. SUMNER,
DR. ISAAC ROWELL,	S. STEVENS, of Oregon.

## SECRETARIES:

WILLIAM S. REESE, W. B. FLEMING,

As soon as the officers of the meeting were duly installed, the cry of "Baker," "Baker," was sounded vociferously from all parts of the building.

Soon, the form of the gallant old Gray Eagle of Republicanism was seen coming up from the rear of the stage, and as the immense assemblage caught sight of his silver locks, cheer rose upon cheer in indescribable enthusiasm. The building seemed to rock to its foundation, so tremendously did the long peals of applause fall upon the ear of the spectator.

The President had to indicate a desire to introduce the distinguished speaker, before there was the slightest abatement in the vehemence of the cheering and applauding welcome which the citizens of San Francisco extended to the veteran soldier in the Republican cause, who now stood before them as one of the Senators from the State of Oregon.

Suddenly all was still; every one stood breathless while the President said:

Ladies and Gentlemen: It is hardly necessary, but it is in proper form; you will allow me to introduce to you the Hon. Edward D. Baker, United States Senator from the State of Oregon.

Again the tremendous shout of welcome rose high and reverberated long.

Mr. BAKER said:

I owe more thanks than my life can repay—and I wish that all Oregon were here to-night. (Applause and laughter.) We are a quiet, earnest, pastoral people; but by the banks of the Willamette there are many hearts which would beat as high as yours if they could see what I see at this moment. (Applause.) People of San Francisco and of California, I owe you very much. But I owe Oregon more. (Great laughter and cheering.) And my heart is very



full and very glad when I think that in trying to pay her all, I will pay you some. (Applause.)

The interests of the Pacific coast are one. Whether by the mouth of the Columbia, or at the Golden Gate; whether in the valleys of the Willamette or on the ridges of the Sierra Nevada, the interests of the Pacific coast are one.

And more than that: Oregon believes that the interests of the whole Union are one; and she intends to stand by them. (Great applause.)

Many of you know how I am situated. If you will only think how you would feel if you were standing in my place; how glad, how happy and how grateful, and just say it for me, then you could do more than I can expect to do for myself.

I am going to make, as of old, a Republican speech. And just when I ought to make the best one I ever did make, I know that I am going to make the worst. (Laughter.)

Four years ago, almost this very night, in front of this house—I recollect that it was a very stormy evening—I had the honor and pleasure to lay the foundations of the Republican belief a little deeper, as I trust, and a little broader in San Francisco. (Applause.) We were then striving to elect, although striving against hope, an eminent citizen (Fremont) now happily among us, and who I believe honors us with his presence here to-night. (Great applause.) We were a young party, untried—and upon this coast weak—and, it may be, a little timorous. Then, even, if we had not been cheated, we would have won. And we did win, with the exception of three or four States,—and one of those exceptional States is called Pennsylvania (Applause); one is called Indiana. (Applause.) You have heard from Pennsylvania recently, and you have also heard from Indiana. (Great applause.)

I recollect saying four years ago—and I suppose that my remark was an application of the old proverb, that “Revolutions never go backward;”—I recollect saying then that whoever became a Republican would remain one. We have lost nothing since then. We have lost nobody, and we are gaining everybody. (Applause.)

What I said then more earnestly than I can say now, I would desire to repeat to-night. The trouble is then we had a great battle to fight; now the battle is fought for us,—in fact, won for us.

I sat down an hour ago and determined: Now I am going to make a grave argument about Slavery, the Territories, the Railroad, the Homestead Bill, and the Pacific interests, and the Atlantic interests, and all American interests. But if you were to stand where I do you would say, what for? We know that we are going to triumph—we will triumph. All signs in earth, in Heaven, approve it. And all I can do and all I ought to do, if for the moment I may assume anything, is just this: Upon the eve of a battle, although every skirmish has shown your superiority, your leaders pass the front and utter in the presence of the exulting troops words of high hope and burning courage. If for a moment or an hour I might assume that task, I

would pass along the Republican front and as the shouts of victory already echoing and re-echoing from wing to wing, are heard in front, in flank, in rear, I might, I may, I will do my little to assure the fearful and confirm the bold. (Cheering.)

I used to begin talking about Republicanism by answering objections. For instance: They were wont to denominate us Black Republicans. Well, either they don't say that now, or they use the adjective so faintly that it does no harm. (Laughter.) They used to call us Abolitionists. They used to call us sectional agitators. They used to pretend that we desired the dissolution of the Union. But events are answering these allegations so fast—what is there left for me or for you to say?

We are sectional, are we? Who is national? How many States will Breckinridge get? (Laughter.) He won't get any in the North, and the Bell and Everett men say he won't get one in the South. (Renewed laughter.)

We are sectional, are we? Let me see now if I can begin the old reply. First—Freedom cannot be sectional—must be national. This is the first answer. Freedom cannot be national. Why, would not anybody be ashamed to pretend that in the land of liberty with a flag which we are proud to call the banner of freedom that any idea that belongs to freedom itself, to liberty, can be otherwise than the idea of the nation?

Now, they used to say that we were sectional because we were not represented in the Electoral College or in the National Convention which met in Philadelphia by delegates from all the States in the Union. I saw a letter last week from a very honest and a very good man by the name of Abraham Lincoln. (Tremendous applause.) And he in thus communicating to a friend said that it was very queer that he should be called sectional by certain politicians when it was a fact that he got more votes in the Chicago Convention from the South than Judge Douglas did in the Baltimore Convention. “Yet the party to which I belong is said to be sectional, while that of Judge Douglas claims to be national!”

Again, to be sectional as a party—if it means anything, it means as I suppose that the party in question intends or desires to do something by legislation for the benefit of one portion of the Union injuriously—or to the exclusion of the other. I cannot give a fairer definition of it. Now, when they say that we are sectional, we just enter a denial. We say that we are not sectional; and we call on you to prove the accusation. Are we? Why? How? When? Where? Now you Breckinridge gentlemen—and I know that there are some of you here to-night—let me ask you if you have ever thought of it candidly. You call me a “sectional man.” What did you ever hear me say or ever know me to do that was sectional? What do I desire that is sectional? And why should I be sectional? And I speak of myself as a type of my friends. Where do we come from; who are we; where are our interests—in what? Why should we, how can we, be sectional? Now these are questions that are politics—a grave, earnest, serious matter of



business—ought to be answered, and we invite you to answer them before the next election.

Now, what do our opponents say? Let us take their strongest argument. They say that we are sectional because we do not represent in our Conventions the Electoral College of the whole Union. Whose fault is that? You won't let us go down South and make Republicans, or we would soon have a host of converts in that latitude. (Applause.) I believe that my friend Judge Douglas, (hisses) intimates that Lincoln can't go South to see his mother. (Laughter.) Surely this is no cause for your complaint against us, if you won't allow us the liberty of speech in order to express our opinions, or even to record our votes in your States. That is not being sectional in us, is it? If so, the fault is yours, and not ours.

But you observe that if we were sectional four years ago we are getting less so very fast. Have you heard from St. Louis lately? Do you know Frank Blair? (Applause.) Do you know what we are doing in Western Virginia? More than that, do you know how many people there are in the South, whom they call "poor white folks," that would be Republicans, if they could have half a chance to express their views? (Applause.) And therefore, if as yet we do not get a great many votes South, that be your fault, not ours. Why reproach us on that ground with being sectional?

Well, again: if "sectionalism" means not to get many votes in one section of the country, what is the position of Breckinridge? (Great laughter.) How many votes will he get in New York? All the votes that he gets there, he will get under a pretense of not running at all.—(Laughter.) That is the idea of the fusion in New York. If they get him and his pretensions out of the way they may have some possible chances; otherwise none whatever. How many votes will Breckinridge get in Illinois? Will he get half as many votes in Illinois as Mr. Lincoln will get in Missouri?

Well, now, the Breckinridge men will think, perhaps justly, that it is very bad to say,—you are a sectional party, because there are some states in which you will not get many votes.

I prefer to test the matter by the other rule. Is there anything we desire to do unjustly to operate to your disadvantage and to our benefit? And you may consider that, if you like, as bringing up and at once, this whole question of slavery in the Territories and elsewhere.

First, we deny, as we have denied from the beginning, and as we shall deny to the end, that we have any desire, however remote, to interfere either directly or indirectly with the existence of the institution called slavery, where slavery does now exist in the States by law. (Great applause.) We say, *secondly*, that it is no portion of our political creed to object to the admission of States with a slavery clause in their constitutions, put there firmly and honestly by the will of their people. (Renewed applause.) We say, *thirdly*, that no Republican body, either popular or legislative, has ever proposed—I won't say carried out, I will go further—has ever proposed to in-

terfere with the existence of Slavery established by law in any of the Slave States. More than that, we say that it so happens that at the very time when our good Southern friends prate most about the dangers of Black Republicanism to them and their interests, it so happens that at those peculiar moments, at that crisis, cotton and niggers are always higher than at any other period. (Laughter and applause.) I have not time to comment upon this, but it is a very pregnant fact. Again, we say, that as a party and as individuals, we have a great deal more interest in preserving the Union than you have; judging by our number, our property, our extended connection with commerce and manufactures, or by any other mode that you may suggest. We never proposed to dissolve the Union; you never heard one of us make such a proposition. I put it now to the intelligence of every man who hears me: did you ever hear a member of the Republican party proposing a dissolution of the Union? Now, a great many of us were old Whigs—and we have been beaten severely, not only once, but almost all the time. (Laughter.)

Four years ago we deplored the election of James Buchanan as a national evil. Have you since heard of the tarring and feathering of Republicans; of running them out of the Slave States; that they deprived us of the rights of citizenship guaranteed to us by the Constitution? They have got the President, they have the Senate and the House of Representatives, they have got the Supreme Court; they thus have the Judicial, the Legislative and the Executive branches of the Government, against us; and for them. And in the face of this, did you ever hear us assert as possible, or predict as probable, the dissolution of this Union? Now, these are things for you to consider before you vote against us.

Now, talking on that point, where are you on that subject? First, you Breckinridge men, where are you? I won't say; it might be unjust, perhaps; it would be unkind, certainly; I won't say that every Breckinridge man is a disunionist; but I will say that every disunionist is a Breckinridge man. (Great applause and laughter.) And the difference is about like the Irishman's idea of pronunciation. He was walking and talking with a Mr. Footney, an Englishman, and the Irishman, with the proverbial politeness of his race and lineage was constantly agreeing with his companion. Whenever the Englishman said anything, he agreed with him, "Ah, yes," said the Irishman, "I agree with you precisely, Mr. *Fat*-ney." "But," said the gentleman, "my name is not *Fat*-ney, if you please, it is *Foot*-ney." "Ah, yes, *Fut*-ney, Mr. *Fat*-ney; that is what I said," exclaimed the Irishman. "Mr. *Foot*-ney, if you please," again responded the Britisher. "Mr. *Fut*-ney, I said," retorted Patrick. "*Foot*-ney, *Foot*-ney, *Foot*-ney, my name is Footney!" "And by the man that made Moses, what the devil is the difference between *Fat*-ney and *Fat*-ney?" (Great laughter.)

Now, while I say, as I have before said, out of politeness, that every Breckinridge man may not be a disunionist, I am bound to add that every disunionist, from Yancey up and down, is a



Breckinridge man. And it is one evidence of the mutability of human affairs,—that here, four years ago, you were charging us with disunion sentiments as if you believed it, and now we take up all that you have said, and a great deal more, and hurl it back at you, and you don't dispute it.

I am told that here in California your stump speeches boldly proclaim the doctrine of Senator Lane from Oregon, that if the South did not stand up for her rights, she did not deserve to have any.

Well, now, as proof that we are not sectional, we will tell you what we mean about this matter of "Union." We mean to do as we have done; to submit to everything wrong, as we have done, for the sake of the Union. (Applause.) The State of Oregon is farthest from the center. I think it will be among the last to leave the confederation. You are numbered among the latest of the States. I know you love the Union. I am sure you do. You never did mean and you don't mean now to dissolve the Union; you are determined that it shall be preserved. (Great applause.) It is very easy, I know, to talk of dissolving the Union, as long as you have all the offices and all the honors. The test will come when you have not these; we have been tried in that way a good while. (Laughter.) Now, when we get a chance to take offices, you attempt to frighten us out of a victory by proclaiming that you will dissolve the Union in the event of our succession in power. While in a minority we entertained no such ideas, and made no such threats. When we are fairly in power, as a majority, we intend to rule, and we do not propose to have you destroy the government of the nation for the sake of the few offices and the few honors connected with the control of public administration.

I have seen the time when I would have stopped just here and indulged in a dissertation on the value of the Union; but these Breckinridgers have completely tired me out of that kind of talk, and I have not the heart to enter upon it.

Let us candidly consider: What do disunionists propose to dissolve the Union for? They say, with the grammar and sense of Van Buren's, "Our sufferings *is* intolerable." (Laughter.) And they propose in alleviation to dissolve the Union. Speaker Orr does it; Yancey does it; thousands do it. They echo it and re-echo it here.

They say first that they will do it if Mr. Lincoln be elected—some of them say that. Now they will have a chance to "try it on that ground." (Laughter and applause.) But, while they are talking only, we will take the liberty of asking them: What for? What can Mr. Lincoln do, alone; what can any President do without a Senate, without a House of Representatives; without a Supreme Court? He cannot nominate an officer that can hold his place. He cannot touch one dollar of the public money. Although nominally, the Commander-in-Chief of the Army and Navy, he cannot order a single soldier to any point from which Congress cannot order his return on the next week. He cannot free a slave.

Now what, in itself considered, can there be in the election of Mr. Lincoln, or any other Republican, to justify anybody in proposing a dissolution of the Union? But now suppose Mr. Lincoln gets the House of Representatives with him, as by the way I think he will? (Applause.) What then? What can they both do? There will then be against them the Senate, who can put a check on all legislation, and the Supreme Court who have a faculty for giving a construction to the Constitution a great deal higher and stronger than the Constitution itself. (Laughter.) But suppose, after a little while,—and I do not think it is a very violent assumption,—that these Black Republicans get the House and the President,—and the Senate too! What then? Why, it seems to me that if they get a majority of the people, and the President and the Senate, it will be a pretty hard thing to dissolve, won't it. (Great laughter and applause.) Well now if otherwise. You yet have the Supreme Court. Those Judges, I know, are very old. But Jefferson said that "Judges never die and very seldom resign;" and, by the way, they are living now, I begin to believe it. (Laughter.) But if Mr. Lincoln should be elected, still the Senate, as it is now constituted, would act as a check on his nomination for Judges; and it will be a long time, according to the belief and opinion of everybody in the opposition, before the Republicans can get power to do anything which the general sense of the country will not approve.

Something there is in party platforms. Something there is in what parties attempt to do. Now what do we propose,—or what have we attempted,—to justify a dissolution of the Union? Take our platform. A great many gentlemen in the Southern States will persist in asserting that we don't intend to admit any more Slave States. We simply reply, we have no such intention; we have no such platform; we make no such declarations; we give no such votes. (Applause.) Still they go on to say, you are going to interfere with Slavery in the States. We say, first, we never have attempted such interference, and you know it. We say, secondly, to you in the terse expression of Mr. Seward, no interference with Slavery in the States; no interference with Freedom in the Territories. (Great applause.) Well, say they, you are opposed to the extension of Slavery in the Territories. We reply, suppose we are: What then? How would you begin to argue the matter? We say, if you are sensible and moderate, we will give you our reasons. To begin: Our fathers were of the same conviction as that entertained by ourselves; Washington and Jefferson were with us. In the beginning everybody was with us. The first, the second, the third important acts of the men who made the Constitution, upon the subject of Slavery, were to dedicate all the free Territory to Freedom, unalterably and forever. And from the beginning until now, if we follow that example, who can blame us? Did you ever hear that answered? I have heard a good many debates, and I have heard a great many speeches, and yet whenever that proposition has been fairly and honorably put I have never heard a fair and



valid answer to it. We say in effect, that if we do desire to dedicate all the Territories hereafter to be acquired to free labor, we are doing nothing more than our fathers did and proposed to do from the very beginning.

Again, we say that we have not gone as far as that. We have yielded something of their sternness in opposition to Slavery. For instance, the compromise of 1820 allowed the admission of a Slave State out of Territory acquired by purchase; and only insisted that Slavery should not be allowed north of a certain line. Say we, we will stand by that compromise. That is a departure from the original plan, but still we will abide by it. Why? Because there does appear a certain degree of fairness in saying that if a Territory is free when we get it, it ought remain free. If, on the contrary, it is Slave Territory when we acquire it, do not exercise the power of the Government to banish Slavery therefrom, but let that question remain for the decision of the people themselves whenever they shall come to form their State Constitution. So we have gone on; and, under that rule, practically applied, what has been the result? Florida, Texas, Tennessee, Kentucky, Arkansas, Missouri—perhaps other States which I do not now recall—come in as Slave States; Illinois, Indiana, Michigan, Wisconsin, Minnesota, California, Oregon, come in as free States. The line was marked thus. In the States I have mentioned first, Slavery existed before they become States. Or, to state it more correctly, Slavery was there in their Territorial condition, and the rights of the Slave owner were continuously guaranteed by State action. There we let it remain. But, to use the expression of the Chicago platform, where the normal condition of the Territory was in the beginning, freedom, we have insisted upon perpetuating that condition of society by State law.

Again, in 1850, when as Mr. Seward very philosophically said, the Whig and Democratic parties were in a state of dissolution, the slavery question once more excited an intense public attention. What then happened? I will not here attempt to say. That state of things did exist. I was there; I saw it. The South said, We want another set of provisions; we want a Fugitive Slave Law. That is one case. We desire that the notion that slavery shall not go into a territory by law shall be done away with; not everywhere, but in relation to Utah and New Mexico. Now, we of the North, Democrats and Whigs, said: What do you want of a Fugitive Slave Law? Haven't you got one already? Yes, said they, we have got one. We have had it for forty years, but it is not a good one. Well, we said, if it has done for so long a period, won't it do a little while longer, as well as before? They replied, The difficulty is that your judges and your jurors up North are not to be trusted. Well, we then said, What are you to do about it? They replied, We want to secure the appointment of a set of Government Commissioners who shall take charge of this question of slavery; and we will not allow your judges or your juries to have anything to do with it. What! said we of the North, set aside our entire system of juris-

prudence, whenever the question of property in a nigger comes up in a Free State! The thing is impossible. Well, they said, We won't still another thing of you. You have in your States a machinery you call *Habeas Corpus*. Ah! yes, we say, that is very dear to us. Our forefathers in England and our forefathers in '76 fought and bled and died for that invaluable writ and safeguard of personal liberty. But, say the gentlemen of the South, that is all very well when it is applied to a white man, but you act very improperly when you attempt to apply it to a nigger. Now, let us look at the strangeness of that proposition. There is a case between two men; the matter in dispute is the ownership of a black horse which strays from Kentucky into Ohio. In order to settle this question of proprietorship there is a trial by jury as to who shall have the black horse. But when a black man runs away from Kentucky into Ohio or any other free State, he shall not have a jury trial. When a question arises as to the personal liberty of a human being, he is denied the privilege of judge or jury trial in the ordinary forms of law. But a black horse cannot be transferred from one man to another, where there is a dispute about the ownership, without the matter being fully determined by twelve men. Again, they repeat, all this talk will do very well for a white man, but it don't do for a nigger. If you don't allow me to have a Fugitive Slave Law in order to facilitate our operations in catching negroes without any interference with jurors, you will dissolve the Union! Oh! very well, we say, if you are going to dissolve the Union, why, take your nigger. (Laughter.) We won't break up the Union for such a reason as that. So the Fugitive Slave Law was passed in 1850, and we got along very well up to the year 1854. And then a new difficulty arose.

The South said, we want to carry our negroes into this new Territory called Kansas. It has been dedicated to free labor. We know that, but we want to carry our negroes there. But, said we, you can't do that, because the Missouri Compromise precludes you from taking any such step. You remember how that Compromise was established; you remember who made it. Old Clay! (Applause). You remember, too, that some of you said that no hand had yet been found base enough to desecrate it. We can't give up Kansas. You have got two-thirds of the organized Territory dedicated to slavery; you have not got a third of the population, and is not that enough? They say no, and they go to work, frame the Kansas-Nebraska Bill; get Northern men to do it; get Northern endorsements, and in the name of Democracy, carry it through Congress! They uprooted the Missouri Compromise and destroyed the public faith. They put the nation in an uproar, and they have kept it there ever since. What then? Why, some how or other, this notion of Popular Sovereignty, this idea of applying Popular Sovereignty when it was not needed, in Kansas, did not work well. Instead of making Kansas a Slave State, it made Kansas a Free Territory, and would have made it a Free State long ago, if it had not been for

the rascality of J. B. (Applause). What happened next? Why, we Republicans in Oregon and California, particularly, and a great many Republicans everywhere, say—Well gentlemen, we will hold you now to your Kansas doctrines. It works better than we thought. Popular Sovereignty in that sense is not such a bad thing after all. As for your notions about "inherent Popular Sovereignty," that is all humbug. The idea that one or two trappers or deserters can go into a wilderness and make a government for themselves, control their own affairs, divide and sub-divide the different parts of government into as many or as few sections as they like, is sheer humbug. But the idea that the first *bona fide* settlers of a Territory have a right to adopt a form of government for themselves under the Constitution of the United States, in relation to marriage, about whiskey and niggers—why, this is a tolerable idea. It worked well in Kansas, and we are willing to try it again.

All of a sudden, and at last, they find out that this won't do; and because poor Judge Douglas happened to be the author of that doctrine, they are exercised dreadfully in the South, and, as for that matter, in the North, too, and just here, and just now, it is due to good faith for me to say that I am a Popular Sovereignty Republican, and I believe in holding them to that bargain, and I was so last year, and I am so now. If there is any Douglas man here who has any doubt about my good faith in adhering to those ideas let him listen to me to-night, and in the Senate. I said, and I re-affirm it, that I believed that the doctrine of Popular Sovereignty practically and honestly applied in Kansas, is a safe doctrine for the friends of free labor. I believe that the people in a Territory may be safely trusted with legislation upon this subject of slavery. And this I say, not because I do not care about Slavery, not because I do care about Freedom. I tolerate none of that miserable delusion; I do care about Slavery and I do care about Freedom. (Applause). I entertain these opinions because, since our experience in Kansas, I have fresh hope and courage and faith in the people, and for free labor, I believe more than I did of old, in the eminent capacity of the people to govern themselves. (Applause). I believe in them—God bless them! I bow with reverence to the majesty of the people in their collective might. I thank God that I see more than I believed before—that, in spite of the machinations of those in power, the people of this nation, the free white laborers of this nation will not tolerate Slavery upon free soil. (Great applause.) I am willing to trust them, and I am glad that when I do trust them, we seize from the Douglas men a weapon which in their hands is but a reed, but in ours is a spear, and a spear as strong as that somewhere described by Milton when he said, "his spear a fir, fit for the mast of some tall admiral." (Applause). It is a great weapon. Popular Sovereignty in our hands is not a delusion, a snare, but a great weapon for Freedom anywhere and everywhere. (Applause.) You can see that when you see these gentlemen on the other side writhe so

about it. Therefore they bolted the Charleston Convention, coming out as Joe Lane says, to "stand, *stand*, STAND by the rights and interests of the South." (Laughter and applause.) They will break up even the traditional love of Democratic Conventions, and the dearest thing on earth to them, "organization," rather than permit that idea of Popular Sovereignty to deface the Democratic platform any longer. Well, now, when they writhe at it, I rejoice. "I mock at their calamity, and laugh when their fear cometh." (Laughter and applause.) We say to them, What's the odds? Popular Sovereignty means the Government of the People. What difference does it make whether we govern it by the whole people of the whole U. S. or by the portion immediately and more directly interested? It makes no odds whether we govern it in Kansas by the vote of Kansas, or whether we govern it in the Union by the vote of the Union. You see the result; it is freedom. What need you care? You will never get any niggers there. What are you grumbling about?

Now, they yet insist in their posters and platforms, "Equal rights to all sections." The disunionist man comes up, and when asked, replies, Equal rights to all sections, all men, as far as provided for in the constitution"—one as well as another—have a right to go into the Territories with their property, of whatever species that property may be. Yes! the southern man can go there and take with him his peculiar property. Says the Douglas man: That depends entirely on the kind of property taken. Some property is good, other property is bad; some is productive, others unproductive; some is safe, others dangerous. Now, if a man wanted to take a pet jackass (laughter) instead of a pet lap dog into a parlor, would it be right for him to do it. But, the southern man says, I have a right to go where I like with my own property. That means niggers. The negro in the first place, let me observe, is special and qualified property; made so by local law; he is called slave by special enactment, not by natural law, not by the law of humanity, nor by the general opinion of the world. Yet, he is property in the face of all this, they argue.

Literature, philosophy, common law and the general opinion of mankind, all concur, that whether black or white, rich or poor, "a man's a man for a' that." (Applause.) Naturally, in a government formed as a constitutional compact between States organized before that Constitution existed, certain compromises were made by them by which we agreed that by local law a negro is a slave. He is a slave, where you can catch him, hold him, and legislate for him. Wherever your force can hold him, or your law can bind him, we acknowledge he is your slave. But, beyond that, beyond your force and beyond your law, he is a slave no longer. (Applause.) And, therefore, when you tell us that you can take your property where you like, we meet you with the broad and general answer. Property is of two kinds. I have described the one. There is another kind of property acknowledged to be such by the general consent of mankind; by



every system of philosophy, by every government, and by every law in the world; and that property you can take with you everywhere. The other is local, sectional; in contravention of the broad dictates of humanity, and in violation of those principles, of thought or action which are broad and general as the universe, or which all good men love. It is the misfortune of your locality, and you shan't carry it with you against the common consent of the men among whom you go. (Applause.)

Now, I ask you, is not that fair? Don't you feel that to be so; is there any equivocation that can overcome it? Well now, the Douglas men in my own country, they put the argument a little different in substance and in terms. They say it is not true that a man can take his property wherever he pleases, with impunity. For instance, in my country, Oregon, (Great merriment) where the hospitality of the people is a great deal broader than their convenience; in my country. (Renewed merriment.) Well, in Oregon. (Great laughter.)

As a friend here, whose country it is, reminds me, if it ain't mine, it ain't Joe Lane's. (Great laughter.) But, at any rate, in any country where the hospitality is more enlarged than the convenience you have sometimes known that in traveling, you have to be accommodated badly—to use the common expression, sleep three in a bed. Thence springs the proverb: "as thick as three in a bed," (laughter) and all who have lived in the western states, or who are acquainted with western pioneer life, know it is a common way of doing.

But imagine three of us traveling the road together. We stop at a house at night, and are informed that we three, being strangers the one to the other, must sleep in the same bed, if we desire accommodation. When about retiring for the night, I look at one of my companions, and I smell brimstone. (Tremendous laugh.) I say to him very politely, "Why, God bless my soul, my friend, are you from Scotland?" (Renewed laughter.) I am reminded of that by Macaulay, who, in the most brilliant history that ever was written, said a thing pertinent thereto, which caused him to be burned in effigy at Edinburgh. I hope no Scotchman will take offense because I repeat it. Macaulay said the Scotchman of that day—not now—"was the most finished gentleman of the age, and he would receive you with a grace that would do honor to Versailles; but in his house you would lie down on a dunghill and get up with the itch." (Great laughter.) I am sure it was a slander then, and I know it is now. Well, I look at my friend and say, "Why, my friend, you have got the itch." I say "well." He says "well." I turn to my other companion as arbiter between us, and we say to the man with the itch, "We are in the majority; you can't sleep in this bed. We are two against one, and we will prevail." What does he say? He says, "has it come to this, that a man can't go where he pleases with his own property." (Prolonged laughter and cheering.) Now I leave you to make the application of the illustration. I have made the illustration; do you apply it? As

a Republican, I only add this: Slavery is the itch to Free Labor. It irritates and discommodes it.

The normal condition of a Territory is Freedom. (Applause). It don't need any declaration in the Chicago platform; it is known everywhere. I have a low estimate of platforms, but it is true that the normal condition of the Territories is Freedom. Stand upon the ridge of the Sierra Nevada, or upon some mountain height that overlooks the eastern and western valleys beyond you, and what do you behold? The savage may be there; the beasts of the forest may be there; the pestilence may be there; but SLAVERY is not there. (Applause). And if it goes there, you take it with you by your force, your fraud or your law.

Well, now then, the people of the North and the people of the South—or in other and better words, the slaveholder and the non-slaveholder, go there. They have an equal right to go each with his ax, his spade, his wagon, his cattle, his capital. But the slaveholder takes his slaves. That is his capital. The eastern man takes his free labor. That is his capital. They come together, and the eastern man says, "I can't work side by side with a slave. It degrades and dishonors my free labor." And the Irishman and the German—who never go down to South Carolina and Tennessee to make a home, but go to Oregon, California, Illinois, and Iowa, and who if they do go where there are many niggers, go to Missouri to root them out; they say, we will not work side by side with a nigger, either. You degrade and you injure our free labor. You diminish its value, you diminish its credit, you lower its dignity. And we will go to work now for the doctrine, the Republican doctrine, that Congress may pass a law excluding slavery from the territories. Congress would in so doing only do what Washington, Jefferson and Madison did. If they don't help us, we will apply the doctrine of Popular Sovereignty, the right of every man to value and preserve his own labor, by the will of the majority of the people; just then the southern man says, "Not so fast, I have got the Dred Scott decision in my pocket," out it comes, "and I have got the President, Mr. Buchanan's interpretation of what the Dred Scott decision means, and I will tell you. It means this: Neither Congress, nor the Territorial Legislature, nor any human power can remove slavery from a territory, because it goes there protected by the Constitution of the United States. And now, Mr. German, Mr. Irishman, and Mr. Illinoisan, I tell you that all your talk about freedom and popular sovereignty, the popular rights, and free labor, is a humbug from beginning to end. Here is the Constitution, and here is the Supreme Court, and here is Mr. Buchanan; and now what are you going to do about it?"

You Douglas men, tell me what you are going to do? I will tell you what some of you have been doing. You go along whistling for want of thought and say, we don't care. Judge Douglas says—as I understood him—in his northern speeches, for I won't say anything about his,

southern ones, that Congress bothers itself with slavery when it ought to be attending to something else. "I don't care. If the people of the territories want slavery let them have it; if they don't, let them keep it out. I don't care." Do you agree to that? Don't you care. You do care. It is nonsense, it is absurd to say you don't care. You can't help caring; first, as a man, because you are a man. There are 4,000,000 of slaves in this country. They are increasing very rapidly. They bring reproach on us in the eyes of the whole world. The interests of slavery kept Kansas out. They have defeated the railroad; denied us homesteads; refused us a telegraph line, and a daily overland mail. Slavery goes everywhere; meets you face to face everywhere you go—and you do care. Besides, you are men. Many of you have read the sayings of the noble dramatist (Shakespeare) "I am a man; and whatever concerns humanity concerns me."

Well, in the next place, if you don't care, you do care about the idea of Popular Sovereignty, don't you? You love that; you believe in that; you intend to stand by that. Now, if you do, I want you to vote with me in November. Tell me, what are you going to do with your Popular Sovereignty? Suppose you are for Douglas. You have got Nesmith from Oregon—a noble man—for Popular Sovereignty. You have got me, who will vote on it when it comes up directly. That is all. The whole South and the doubtful gentlemen of the North, all—the Republicans excepted—will not sustain Douglas' doctrine of Popular Sovereignty. They worship at the foot of another idol. Now, what are you going to do? Your idea of "unfriendly legislation" is unworthy of yourselves and the cause. If freedom is right, sustain it like men. (Applause.) If it be not, abandon it. Now I will tell you how I am going to sustain it. I will not make war, I will not revolutionize the Government, I will not dissolve the Union, I will not dispute the Supreme Court. If they say Dred Scott is not a citizen, I say Dred Scott is not a citizen. If they say that all negroes are not citizens, why in that particular case, where a negro comes to me, I say: You are not a citizen John, Sambo, Pompey; the Supreme Court has so decided. But when a Douglas man comes to me and says, what shall I do about Popular Sovereignty? I say, be a man and attack the Supreme Court; not by revolution and violence, but reform it altogether. Do what? Is not that nullification? By no means. When the Supreme Court decided upon the mere question of money, that the United States Bank was Constitutional, General Jackson and Mr. Douglas said it was not; Congress said it, and the people said it was not—a Supreme Court were put in to say that it was not, and that was the end of the whole matter. Well now, we will obey the Supreme Court in the particular case decided, but the character of the Court will soon change in the natural order of events; we will then through Lincoln, a Republican Senate and House, put in better men. We will reverse the decision of the Supreme Court by the decision of the people. What will you

Douglas men do? Will you march in that great procession—or will you turn your ear coldly away from the music of that march. There is no nullification in that; there is no revolution in that; there is no violation of the Constitution. Why, what is this Government? Think of it! It is the government of the people. Not a pure Democracy. We don't gather together in the market place as they did in the time of Pericles and all determine our laws, but we elect Representatives and Senators, and make a President and a Supreme Court, reserving to ourselves the power to change them at limited and stated periods. When they do not please us, we reverse their decisions by changing their places and sending them away. And at last, not by party, violent, impetuous action, but the determinate, well considered, deliberate expression of the people will prevail. It must prevail at last, just as well in relation to a construction of the Constitution as anything else. The idea that there can be a power which can give a construction to a Constitution, mightier than the Constitution itself, is a very strange idea in a free country. The other idea, that there can be a power in the State, which can declare by way of construction—and by way of construction only—that the Constitution means what our fathers and its framers denied that it ever did mean; and that once having done that and said that, though they die and pass away, yet that their decision remains in full force irreversible forever and forever, is absurd, slavish, and despotic.

Yet, once more, add to that the other idea that this decision is made not in relation to property merely, but that it is made in relation to human rights and liberty—not mere public liberty; worse than that, personal liberty. It is made, according to that idea, not for any State, but for all Territories wherever the American flag may float, wherever the banner of the stars may be seen—wherever the name of Freedom may be echoed from human lips, *there* Slavery by virtue of that decision, is to go protected, guarded, hedged about with all the divinity that invests and guards a king, to remain there a black stain, a disgrace, a wreck and ruin forever and forever. By all the hopes and joys of liberty, to my mind that is treason against human hopes. (Great applause.)

Now you Douglas men, what are you going to do? You will vote for Popular Sovereignty, will you? Well now, first, probably you are not going to carry a State. (Tremendous applause.) Suppose you do carry one, which will it be? California? (Voices, no! narry time!) Perhaps I don't live in California; no, I don't know about it. (Laugh.) But suppose you do carry California and Missouri. Any more? No. What good will that do if you don't join the defenders of true Popular Sovereignty, in whose ranks we are?

If you don't join us, what are you Douglas men going to do? Come with us and we will do you good. (Laughter.) We will stand by your doctrine of Popular Sovereignty as an engine for Freedom. We do care. Now do you come and care too. Well now, suppose we do create Freedom, if I may use the expression, in the Territo-



ries by Republican or Douglas votes, and keep it there, what is the harm? Who will dissolve the Union then? Why these gentlemen talk about this question of the Territories as if we were doing the people of the South, as a body, some grievous wrong. They forget that as yet—and I trust it will be so for all time—the interests of freedom and of free labor are the great interests of the American people. There are to-day, as the late census will show, but 270,000 persons in the Union who are interested in slaves at all. All the rest of our white population have an interest directly adverse. Suppose it were true, that we would be sectional enough to legislate for thirty millions of people less 270,020. Would that be a cause for a dissolution of the Union?

When I stand here as an advocate for Free Labor in the Territories, whom am I working for? Did you ever think of that? There are a great many poor laborers in the South as well as in the North. The dedication of Free Territory to Free Labor, affects them favorably. I do not, therefore, as a Republican, go to a man from Maine, Illinois or New Hampshire, but I go to the man of labor everywhere. I say, come, take your axe, and your spade and come out. Leave your idea of a nigger behind you. Work, cultivate, adorn, fertilize and beautify! Be a man. Make homes for yourself and those who come after you; I do not ask, I do not care where you come from, whether North, South, East or West. Nay, more; I do not stop on the soil of America. I wade waist deep into the surf and say to the German, come! to the Irishman, come! I say, there is ample room and verge enough for all. The American flag shall float over you, and the ideas of liberty advance as long as there shall be a bright eye on earth, and as long as the stars shall shine in Heaven. (Terrific applause.) Being fortified by party organization, it is sorrowful to see how our Irish friends are going. We talk to them; I talk to them. They have stood by me in more than one battle. Many did last year. I appeal to them once more. I say to them, you have come from a land where your fathers have been oppressed more than eight hundred years, you have come to a land where the great idea is Freedom. Every country has a peculiar and great idea. In England it is the commercial one; in France, the military one. But, I say the great idea of America is Free Labor—Freedom. (Applause.)

You, from the Shannon or the Liffey, you come here with labor as your only capital. Why not dignify it, why not make it valuable, why not guard it, why not assert its right? Do you want slaves among you? Do you go where they are? Do you want them to come here? Do you believe in these so-called notions that will carry them to Arizona and Washington Territory: everywhere in the territories, wherever you may go? You do not. It is the name, it is the idea, it is the odor that lingers around the vase—a fetid odor at that. (Laughter and applause.) Now I tell you, that Democracy in that sense is dissolving. It is Democracy no longer. There is none of it in that so-called party. They can't agree among themselves what Democracy is:

and one says, lo here! and another says, lo there! (Laughter and applause.)

And you pretending to come to a land of freedom, and live in it! What are you doing? If I were to appeal to a young German, I would say to him this: I will imagine you have come here, toiled five years, and gone back on a visit. You know since the time the Republicans backed Cass and others out of their Leclerc letter, you can go safely. Well, when you get back what do you do? You go to the old house, to your father and mother and give an account of yourself. "Where have you been," asks the old gentleman. "I have been in Illinois, in California, and in Oregon." "Well yes," the old people will say, "you have been there; but have not you been down in states so fertile and with so fine a climate, Virginia and South Carolina?" "Oh, no." "Well, why not?" "Oh, they have slaves down there." "Ah!" says the old man, "that's right. Don't go where there are slaves. You went out of Germany to go to a land of freedom. When you go back, don't go to the Slave States. Well John," continues the old man, how are you in politics?" "Oh! I am a Democrat." "All right; a good name. The distinction in this, your native country, John, is between Democracy and Aristocracy. Now John, you are not an Aristocrat, but a Democrat. I suppose the distinction there is the same as here." "No," says John, "the parties in America are Democracy and Republicanism." "Republican!" says the old man, "that is a good name too. What is the distinction between the two?" "Oh," says John, "the Democrats go for equal rights to all sections." "Oh yes!" says the old man, "equal rights to all men, very good." "No, no, no!" says John, "not equal rights to all men, but equal rights to all sections." "Sections," says the old man, "what does that mean?" "Equal rights to all sections means the right to take your property, whether in slaves or otherwise, wherever you please. That is the Democratic doctrine. Equal rights to all men, is the Republican doctrine."

Now, how are you going to account for this? What can you tell the old folks, but what I have already said. Why, you will say, perhaps, "Father, I did not like Slavery. I would not go down to Virginia because I wanted to avoid it. I voted against it in California and against it in Oregon. But, somehow or other, to be sure, the influence of the Democracy and the influence of the administration and of the organization is for it. They do want to have negroes everywhere; they intend to take them into all the Territories. They don't care about any other right but "equal rights to all sections." Says the old man: "Did not you love Freedom in Germany? Did not you feel in 1848 as if you could have died for it? and do you go now and sneak at the heels of an administration which is endeavoring to carry negroes everywhere because it happens to have the name of Democratic?" You German Republicans do not talk that way. You can go home and answer such questions with cheerful and honest pride. You can go home and say: "Father, I have not shamed your teachings; I

love Freedom here, and I love it there. I went on the soil of freedom, and my voice has ever been for it there."

Did any of you ever hear Carl Schurz talk? He said the other day that there were 300,000 Germans for Fremont in 1856, and that there were now 600,000 for Lincoln. (Applause.) He talks like a man inspired. Why? Because he brings all the enthusiasm of his own nature, all the deep enthusiasm of the German nature, to bear on that great idea of the progress of liberty in this land devoted by our fathers to Freedom. (Applause.) Well, now, you Germans, German Republicans, is there in all this any pretense for dissolution? Will anybody be hurt? Suppose we do keep all the Territories for free labor. The Popular Sovereignty men and the Republicans both propose arriving at the same thing, but by two different modes. What then? Who is hurt? We shall do but as our father's did. We strike for Freedom. In every free Government Freedom is the rule; Slavery but the exception. Thence the toil and struggle in legislating for free labor. Thence we obey the will of the Master and by that we act in the eyes of the world as becomes a free people.

Again, yet once more. Do you reflect that to-day two-thirds of all the organized Territory of this Union is dedicated to slavery. That, too, when they have but one-third of the population. Do you know that they have more slave territory than they can scratch over, in the way they are doing, in two hundred years to come. But, above all, do you remember that these States, in which the area of slavery is comprised, have no sympathy either from God, angels, or men, save within their own borders. Do you remember that they have forced the Democracy North for a long time to go with them. They have held the balance of power. They say to the North, "You take the offices and give us the slaves. Give us the power to extend the institution of slavery, abandon the Railroad, homesteads, etc., and take the offices. You can take a good many of them, because we can wind you round our finger whenever we like." Of what is the Breckinridge party in this Union composed? First, every man South. I begin to believe from accounts, however, only *some* men South are Breckinridge men. (Laughter and applause.) Second, all the office-holders in the North. Third, nobody else. (Laughter.) There were some Germans, some Irish in their ranks; the Germans became Republicans, the Irishmen, Douglas men. And where is Breckinridge? Well, now I repeat, the Democracy of the North have gone with the slave power. Perhaps they went unwillingly? "Organization," "the real Democracy," "Democratic principles," and such twaddle have made them do it. Now, where are they? The Democrats in the North as a body, except the office-holders, go for Douglas. As for the office-holders, we are about to turn them out. (Laughter and applause.) Now is there one land which sympathizes with the attempt to govern this country for the purposes of slavery? Do you? Does England? Does Russia? Does Germany? Does Spain? Does Mexico? Why,

one of the most affecting incidents I know of in connection with the war with Mexico, occurred when the Mexican Commissioners met the American Commissioners near Mexico to determine the treaty of peace. They said in effect, to Mr. Trist: "Sir, we are a conquered people. You can prescribe your own terms. But, we implore you, in the name of humanity and liberty, that you do not force slavery upon an unwilling people." (Applause.) That was the Mexican settlement. And sometimes when I hear myself reproached for being a Black Republican, I stop and consider, who I am and where I am, what I am doing, and who I am doing it with. A Black Republican! With whom? Let me look at California. I look around me. Who are we? Look at our intelligence, our wealth, our taste, our brilliancy, our beauty, our numbers, our force, our enthusiasm, our growing power, our deep convictions, our real, earnest convictions, and see who we are. (Applause.)

Who are you? In California, shifting, fusing, dividing, some for Douglas, some for Breckinridge, now here, now there. The cry of "Black Republicanism" avails you nothing. "Abolitionism" chokes in your throat. You see signs of success, omens of fortune on either hand. For us it thunders always on the right, but you—but I leave you to determine. Again, take the property, the wealth, the agriculture, the amount of taxation, the intelligence, the discovery, the invention, the poetry, the philosophy, the cities, the churches, the school-houses, the pretty women. (Great laughter and cheering.) And on whose side are they? Why, if you want a cotton-gin cleaned you have to come to us to do it—and to make it in the first place. I speak not in disrespect of the South. I know the virtues of the South. They are courteous, hospitable and brave; and in spite of this trouble about dissolution, they do love the country. They do; I know it; God bless them for it. (Applause.) But in many of the elements that go to make a nation, they, by reason of slavery, are lamentably deficient. The books, material wealth, moral advance, deep philosophy, inspired poetry, all these they have not in a great degree of themselves. The books they read, we write; the philosophy we teach, they learn; the lectures we deliver, they hear. Bancroft and Prescott write their histories; Bryant and Longfellow their poetry. (Applause.)

In the whole world abroad, even where there is the lowest political degradation, ideas of personal liberty, at the present time, grow apace. Beneath the shadow of the throne of Russia; above the ruins of the Inquisition; on the banks of the Seine; around the ashes of Napoleon, and where a British Queen presides in all her matronly dignity over a free people; everywhere, ideas of personal liberty fructify and grow. It was the boast of a great Irish orator (Curran?) long, long ago, that when a slave touched the sacred soil of Britain, the fetters fell from his limbs, and rose disenthralled. I think that was his idea, though not his glowing language—before the genius of universal emancipation. (Applause.) Everywhere the great idea of personal liberty,



developes, increases, and fructifies. Here is the exception. Here, under the American Government, in the land of liberty, the chosen of all freemen, the home of the exile, such is not the case. Here, in a land of written constitutional liberty, it is reserved for us to teach the world that under the American stars and stripes, slavery marches in solemn procession; that under the American flag, slavery is protected to the utmost verge of acquired territory; that under the American banner, the name of freedom is to be faintly heard; the songs of freedom faintly sung; that while Garibaldi, Victor Emanuel, every great and good man in the world (tremendous applause) strives, struggles, fights; prays, suffers and dies, sometimes on the scaffold, sometimes in the dungeon, often on the field of battle, rendered immortal by his blood and his valor; that while this triumphal procession marches on through the arches of freedom—we, in this land of all the world—shrink back trembling when freedom is but mentioned. (Great applause.)

At this moment, Mr. Edward Harté, who was occupying a seat on the stage, employed in reporting for the *Times*, apparently seized with uncontrollable enthusiasm, sprung from his place and advancing to the foot-lights, exclaimed: By God, it is true! You are all slaves compared with the rest of the world. The Colonel is right!" (Great applause.)

Mr. Baker, (resuming): It is out of the question. I cannot go on. [Cries of "Go on!" "Go on!"] You cannot discuss Republicanism in half a night, and it would be presumptuous and absurd on my part to attempt it. You know these things as well as I do. You feel them in your heart. Perhaps I could talk to you an hour longer without losing those who love me ["Go on! Go on!"] of the application of these questions of slave and of free labor to our ulterior and immediate interests. I will glance at them, with your permission, and glance at them only.

To begin: The South has an identity of interests in slaves. Our interests are diversified. Our interests are in stocks, in farms, in cattle, in manufactures of every branch, and industry connected with free labor. Now, whenever, in this country any measure comes up which does not, in some shape, in their judgment, operate favorably for the perpetuity or extension of slavery, if it does not send support to their one single subject of interest, they go against it.

You may take, now, the Pacific Railroad as a striking example. Ten years we have been here; ten years away from home; ten years 'children of the dispersion'; ten years longing and lingering with our eyes turned towards the East, towards the happy land so many of us may never, never, see again. We have sighed for a Railroad; we have begged for it. We have pointed out with deep research and wide philosophy, and eminent learning, and great enthusiasm, its importance to us. We have shown its importance, not only to us, but to the United States, not only to the United States, but to the world, not only to the world now but to coming generations. We have pointed out the best

route. We have indicated the best mode of constructing this work. We have reflected maturely and fully upon the subject, and our conclusions have been well founded and unimpeachable. We have, in this connection, demonstrated the needs of the people. We have shown how towns and cities would spring up along the line of this road, forming a perfect line of defense across the entire continent. And the military need for this work has been thoroughly proven. We have illustrated how this road was bound to be the great highway of nations—the great line of trade between the nations of Europe and Asia. How often have we pointed out the absolute certainty that commerce, in her legitimate working would establish along the line of this route States of unsurpassed wealth and glory. All this we have done over and over again. But it has been of no avail. Buchanan professed to recommend the road; Pierce professed to recommend its construction. But all these favors, if they were such, went for naught. "We asked them for bread and they gave us a stone; we asked them for fish and they gave us a scorpion." The Democracy, the Southern Democracy, the slave interesters would not permit it. Even while I speak, the intelligence comes that the Breckinridge Convention of Virginia resolves again and again against any railroad in anyway. Here is the fact. Well, what are you going to do about it? How are you going to help it? RISE as they have risen in Oregon; RISE, as you are rising in California; assert your rights; declare your purposes; stand by free labor and the time will speedily come when you will attain the full fruition of your hopes. (Applause.) You cannot win on these matters unless you have the administration with you. You cannot win unless you send men to Washington who will unite your interests with sympathisers for free labor. You cannot win as long as you send men to the Senate and the House who will yield your interests to the dictates of an unfriendly administration or a sectional Convention. These are very plain truths for you to ponder upon.

If four years ago, we had elected Col. Fremont, what would have happened? In a few months he would have commenced the work; and preparatory to this he would have sent out two regiments of dragoons to tramp the track. (Applause) He would have immediately recommended a railroad. There would have been no beating about the bush, on the mere question of the constitutionality of building a military road; he would have recommended the building of a road at once with the money and for the probable benefit of the whole people. He would have had no constitutional scruples himself, and he would not have tolerated any in anybody else. He would not have allowed Senators to come to the White House and say to him, you must go against this proposition for a Pacific Rail Road, or I will oppose you and your administration. He would not have delayed the work because Senator Mason, or Toombs, or Hunter, expressed their disapprobation of it. He would have simply said: The Government needs the road, and the labor on its construction must immediately proceed.—

In the name and for the cause of free labor he would have commanded in all legitimate forms the prosecution of the mighty undertaking. And though I candidly believe that there is not a more incorruptible man in the world than Fremont, I may be permitted to say that I think that if there had been any corruption under his administration it would have operated for and not against that great work. (Great applause.)

Now we are running a man by the name of Abraham Lincoln, (Great cheering) who will do that same thing. He really loves free labor and her interests; he was born with such sentiments though a native of a slave state; he is of it. He may say, speaking of free labor achievements, as Æneas said to Dido, when he was describing the sacking of Troy, "All of which I saw and part of which I was." He is a simple minded, an honest, a true man—a Hero without knowing it. (Great applause.) He will guard you and your interests because he is with you and of you. If he gets into the White House, (and there is no "if" about it) he will recommend the construction of a road in all sincerity. He will not dodge the question. But his hands must be strengthened and upheld by you. You must send men to Congress—Senators and Representatives—who will sustain him; men who do not have all their feelings enlisted for the propagation of "the peculiar institution."

Now, allow me to say that what is true of Rail Road propositions as viewed by the South is equally true of the Homestead Bill. Nor of these alone. But is equally true of all things connected with the interests of common men. What does the South care about Homesteads? What does the South care about spreading the cordon of homes that themselves will constitute the very best of military posts from Missouri to the Rocky Mountains, and thence to the Sierra Nevadas? They never trade with us; the citizens of the South do not send goods to us, their interests lie in quite a different direction. Virginia! Virginia! Once the Mother of States and the Mother of Statesmen, is now almost exclusively engaged in slave breeding; engaged in raising them to send South. What does she care about homesteads and railroads? Nothing.—Pity, 'tis 'tis true! Why there are 50,000 whites in Virginia over 21 years of age who can neither read nor write! She don't care about Railroads. But we do. The German immigrants do. Norway and Sweden, they who come to us from those countries, care about those things. We have a thousand millions of acres of Public Land. Let us repeat it, we have a thousand millions of acres of Public Land. And upon them, during generations to come, thousands and hundreds of thousands of happy homes may be reared. The taxes they will yield, the wealth they will create, the strong arms they will sustain for willing and valuable labor in time of peace and for ample and prompt defence in time of war. These constitute our power, these, to use the expression of the Roman matron when called upon to produce her chief treasure, produced her children, saying,—“These, these are my jewels.” (Applause.)

What does the South care about these things? Her interests are not ours. The institution of Slavery overshadows everything. Day laborers, common people, laboring white folks, who are neither politicians nor office-holders—and the latter now involve the former—have no interest, and apparently few rights which the sectional chivalry are bound to respect or candidly to consider. And as long as they can keep them under their direction, the slaveholders of the fifteen slave States will secure their votes against a Homestead and against a Pacific Railroad; against all the interests which are common to the people of this coast. But this is not always so to be.

Allow me to say that one day this month, a Republican Senator was elected in Oregon. The next day the Democratic Legislature instructed me to vote for a Homestead Bill. Lane and Smith having heretofore voted against that beneficent measure. Now, there is a revolution going on upon this coast. Here, the vote of California has been at one time against a Homestead Bill. But this will be so no longer. Positions are to be renewed, and Freedom and Free Labor are to have the representation from the States of the Pacific. (Great applause.)

When we get into power, as soon we shall, it will be our aim to use that power wisely and temperately. We will infringe upon no Constitutional rights. We will not attempt to interfere with the slave where he is now held under a State law. We will not organize, encourage, or for one moment tolerate the insane movements of any John Browns. (Applause.) We will justify nothing of the kind. If another John Brown should descend upon the Old Dominion, and take the State by storm, and keep the people on the northern outskirts in dreadful captivity for twenty-four hours, and should get hung for his fantastic and treasonable capers, it will not be our fault—simply a misfortune in which he will not have our sympathy as true and loyal citizens. (Applause.) And not only so, but let anybody else, high or low, rich or poor, from the North or from the South, attempt treason, and we will hang the traitor on the instant the overt act is committed. (Great applause.) While that is so, we must insist with the fullest emphasis that the majority must rule. Our's is not a Government of Minorities, but of Majorities. At least we come to this conclusion: we either rule or submit as politicians. This is the end of the whole matter.

Again, there is the direct opposition between slave labor and free labor. And here I am addressed by some Democratic friend: “Col. Baker, what say you concerning Seward's opinion that there is an irrepressible conflict between Slavery and Freedom? What do you say, Col. Baker, about that idea of Lincoln's, that the States will not always remain half slave and half free, but ultimately they will be all free or all slave? What have you to say on that matter?” I think that if that is Lincoln's opinion, he has a right to express it. In the next place, I apprehend that that is your opinion too. So you think that Slavery is going to last forever? I know you



don't. God is too good for that. We know that with Him a thousand years is but as one day and one day as a thousand years. Let that be so. Though it may require years to work its destruction, every true man feels that Slavery will not last forever, and every man of manly courage who thus feels, will not hesitate to avow his sentiments. Who wants it to last always? We hope that pain and disease will not last forever. I feel tolerably confident that Slavery will not last forever. I recollect of hearing Mr. Clay, in one of the finest passages in one of his most powerful speeches, felicitate himself and his countrymen on the prospect that civilization, through the instrumentality of the emancipated slaves, would yet be carried to the banks of the Niger. Nobody accused Mr. Clay of being an abolitionist in any sense.

And I apprehend that you Breckinridge and Douglas men have a little sense of piety in your composition—inherited from your mother—not practised by you, perhaps (?)—individually, I trust that you believe with me that the time is coming when Slavery will be abolished. You go and read Pope's Messiah—some passages in that sublime composition. See how he treats the subject. I don't know that Pope was an Abolitionist, though great and inspired poets are apt to be. Homer was, Shakspeare was, the Bible teaches such doctrines; and though I can't stop to consider the question as to whether Pope was an Abolitionist or not, I can say that he would be in very good company if he was. However that may be, I have quoted an expression on the part of Lincoln as to what was going to be; but if you will read the rest of the passage, you will find that he tells you that while he thinks that such things are sure to come to pass he would by no means disturb the present peace and order of things in the Union for the purpose of effecting or hastening such a result. Seward and Lincoln agree in expressing the opinion that there is an "irrepressible conflict" between freedom and slavery. Don't you? As long as there is a slave and a master anywhere in the world, the heart of the slave will throb for freedom, and he will struggle for it. Educate him, and he will fight for it. Nerve him, and he will die for it. And you, to save your soul can't help standing up and saying, "Hurrah for the weaker party."

I know, however, that applied to our party the term "abolitionist," disunionist," are altogether out of place. Nobody half dreams that we are abolitionists. We go for the white race, for civilization, for free homes and freedom everywhere.

But it would seem that my friendly inquirer does not remember that Mr. Seward qualified his remarks by announcing that this irrepressible conflict was to be carried on under terms of the Constitution; and at last, it is but the expression of the opinion of a statesman and a philosopher, referring the great question to the wisdom and Providence of God.

And, in that connection, permit me to say that there are people who feel very much grieved for fear that Lincoln and Hamlin, and men of

that stamp, have too much sympathy with the negro race. Why, there are men in my country who, but the other day, were ready to quarrel with their neighbors if a suspicion of sympathy on their part with the negro race was but hinted. "Why," said one of them the other day, "I ain't no d——d abolitionist." My uncle had a nigger [1]. There are a good many people of that sort who seem to fear that there is dire confusion and danger in one's having too much sympathy with the negro race. Come now, I am not a Catholic, but I will get on the confessional and acknowledge that I have sympathy with the negro race. I have sympathy with all slaves; with the suffering and unfortunate of every class; and I would to God that I could help the whole of them. I sympathise, as I have occasion, with a man who has a scolding wife; or a smokey chimney, or the fever and ague; but I don't know that I am therefore bound to advise the man to whip his wife or to pull down his chimney or to take arsenic for his fever and ague, and I don't feel bound to run a tilt to free every negro at the expense of breaking my own neck. (Laughter and applause). I have sympathy for the slave, but I am restrained in any efforts for their actual liberation by the laws of my country, which I implicitly obey and profoundly respect. My first duty is for the honor and glory of my own race. A portion of the colored race are enslaved in this free country. I would to God that it were otherwise, and if within constitutional limits it were possible to help them to their freedom, I would do what I could for their relief. My Douglas friend would do the same. Why not? As we all ought, I go to the temple of the Most High to hear and to utter prayer and praise. I I join with all men in their devotions. When the Priest says: "Lord, have mercy upon all men." I don't respond, "Good Lord, on all white men,"—I say "on all men."

The mistake of our adversaries is this: They seem to suppose that if we have human hearts, we must be plotting treason against them. Not so. While we have sympathetic feelings, which are nothing more than human, we remember that we live in a land of Constitutional Law. We are a confederation of sovereign States. We concede to the south their property rights, according to their own law, in their own way. Far be it from us to violate the provisions of the Constitution. We know that the contract is hard. Perhaps if it were to be made over again, we would not form it in the same terms. But, whatever is nominated in the bond we will abide. For instance, if I own 10,000 cattle worth \$100,000, I have but one vote, and that is my own. If I own 500 negroes worth \$100,000, I have two hundred votes. Although I don't vote that number of times at the poll myself, the result is the same. Five negroes have the representative power of three white men, and the vote is given by the master—that is the practical effect. That is hard; but it is in the bond, and we abide it. It is hard to say to us, you shall give up the writ of *habeas corpus*, give up your right of trial by jury. You say that our judges and jurors are not to be trusted, but that a black man accused of

being a runaway slave shall be delivered up to you on your simple affidavit. That is hard, but we will abide by it.

As Hammond (Senator) said the other day, the South has administered the Government for sixty years. He asks if they may not safely do it for sixty years more. They might do it, but we think that we will try the business. (Applause). There need be no fear of a rupture. The Government which our fathers founded will not be broken up by us. No threat of disunion, no hard names, no fear of outside feuds shall drive us from the broad, luminous path of right and duty. (Applause.) In the presence of God—looking up reverently to Him while we say it—we Republicans declare that Freedom, in this great Government, is the rule, and slavery but the exception. (Great applause.) Slavery is the exception—marked, guarded, hedged in and protected; there let it remain. (Applause.) Let it claim its just rights, and possess them—if we are to be accessory to all its vices and errors—if even public opinion is not to be allowed to visit its dusky cheek too roughly—let that be so; but beyond what is nominated in the bond, we will not and dare not go. We live in a day of light; we live in an advancing generation. We live in the presence of the whole world. We are “like a city set on a hill which cannot be hid.” The prayers and tears and hopes and sighs of all good men are with us, of us, for us (applause), and for me, I dare not and will not be false to that position. Here then, years, many years long gone, I took my stand by Freedom, and where in my earliest youth my feet were planted, there my manhood and my age shall march. And for one, I am not ashamed of Freedom. I know her power. I rejoice in her majesty. I walk beneath her banner. I glory in her strength. I have seen Freedom in history, again and again; with mine own eyes I have watched her again and again, struck down on a hundred chosen fields of battle.

I have seen her friends fly from her; I have seen her foes gather around her; I have seen them bind her to the stake; I have seen them give her ashes to the winds—regathering them again that they might scatter them yet more widely; but when her foes turned to exult, I have seen her again meet them face to face, resplendent in complete steel and brandishing in her strong right hand a flaming sword, red with insufferable light. (Terrific cheering and applause, the audience rising *en masse* and pealing cheer on cheer.) And I take courage. The people gather around her. The Genius of America will, at last, lead her sons to Freedom. (Great applause.)

People of California! once in four years, according to the appointed law, you assemble to conduct a complete, yet in this case, a peaceful revolution. No danger awaits the day. Disunion is far from us. The heart of the people is right. The wheels of Government will roll on in their appointed way. We have a plain, honest, earnest, simple duty to perform. Let us do it well. All the omens are auspicious; and after all, the best omen is a good cause. On

this Pacific coast we have labored long, and heretofore, with little hope. Sometimes we have been reviled; even scoffed at, beleaguered and beset. It is but a year ago, a few days past, since I, your humble and then unsuccessful champion, was beaten in this fair State—largely beaten—though obtaining a vote beyond my best expectations, for the office of Representative in Congress. With my heart bruised, my ambition somewhat wounded, my hopes crushed and destroyed, it was my fortune, one week later, to stand by the bedside of my slaughtered friend Broderick, who fell in your cause and on your behalf, (sensation) and I cried aloud, how loud! O, how long! shall the hopes of Freedom and her Champion be thus crushed forever and forever?”

The tide has turned! I regret my little faith. I renew my hopes. I see better omens. The warrior rests! It is true he is in the embrace of that sleep which knows no earthly waking. Nor word, nor wish, nor prayer, nor triumph can recall him from that lone abode. (Sensation) But his example lives amongst us. In San Francisco I know I speak to hundreds of men to-night, perhaps to thousands—who loved him in his life, and who will be true to his memory always; and if I were not before a vast assemblage of the people I would say that in a higher arena it may be my fortune to speak of him and for him, as I will. (Great cheering and applause.) I hope, I believe that I shall be able to say that his ashes repose in the midst of a people who loved him well, who are not and never will be forgetful of the manner of his life, nor of the manner of his death.

People of San Francisco, I thank you for the honor of your presence here to-night. You make me very happy and very proud. In the contest through which I have just passed, your earnest desire for my success, the kindly words that were spoken of and to me, cheered me in times of doubt and adversity, and infinitely heightened my satisfaction in times of prosperity and triumph. I rejoice that through circumstances beyond the probable hope of any man here present, a State generous, confiding beyond any man's desert, has placed me where I can show that I really do feel in the depths of my heart their trust in me, and where, in doing that, I can serve you. (Applause.) Believe me that as I can—not as a politician merely, not as a mere party follower or party leader—if I can in an earnest, simple, heart-felt way, show them, and next to them you, the gratitude I feel for favors long since and but recently bestowed, for confidence long since established between you and me, I shall consider myself extremely happy and extremely fortunate. (Great applause.)

And expressing to you again and again my thanks for the great honor you pay me this night. I bid you a cordial, heartfelt, affectionate, farewell.

Senator Baker retired amid a wild storm of applause and cheering.

The meeting then adjourned.



SPEECH

OF

MR. A. C. BRADFORD,

In Opposition to the Bill to provide for

THE ELECTION OF U. S. SENATOR

AT THIS SESSION OF THE LEGISLATURE.

MR. SPEAKER: This is the most important question that has been agitated at the present session. Both parties seem to be sanguine of success. What will be the result of this contest, I know not; but even if the election should be brought on, I do not think it will interrupt the physical prosperity of the State, nor lessen the number of candidates that will periodically turn up for this position to serve their country for their country's good. The sun, I expect, will rise and set with the same regularity, and the seasons will go and come with their same effects, in obedience to the unbending laws of nature. But how stands the question in a moral point of view? It is at once a bold and reckless departure from the custom of our confederated States, an infringement of the rights of the people, and a violation of the great fundamental principle of our government.

This contest has created a condition of things unprecedented. We behold the Democratic party divided on what some call policy, others principle. The papers throughout the State have taken sides, and charges of the vilest character and in the bitterest language, are daily thrown broadcast over the land.

The endeavour has been made to spring sectionalism into this contest, and stir up the worst passions of the human heart, that they may have their influence in the Senatorial fight. And what is all this for? The advocates of election claim that it is to sustain a mere matter of policy, while the gentlemen with whom I have the honor to act, measure their opposition to the election this session, from more exalted motives—from principle alone. As a matter of policy, I would urge the advocates of this measure to refer the whole subject to the next Legislature. This will hurt no man, destroy no interest, compromise the chances of no candidate; but it will unite the Democratic party, harmonize conflicting views and discordant elements, and we can present an unbroken front in future campaigns. It will also purify the moral atmosphere, and vindicate the character of the Legislature from the foul imputations which have been thrown upon it. But, sir, if it is the determination of these gentlemen to force this election on, we cannot escape the charges that have been made. That this Legislature has been corrupted, purchased, bought like beef in the shambles, the people of this State must believe, from the floating evidence of the day. Where will the future historian of this Legislature, if there should ever be one, look for facts to chronicle the truths of the present time? He must obtain them from the newspapers of the day, and from them alone; and their columns, since the agitation of this subject, have been heavy with the charges of bribery and corruption.

Mr. MYRES: I would ask the gentleman from San Joaquin if he means to say that any gentleman on this floor has been purchased; and if so, who he is.

Mr. BRADFORD: I stated that from the floating evidence of the day, such would be the belief in future times—such the conclusion that would be drawn.

Mr. MYRES: I ask the gentleman to point out any particular instance of corruption.

Mr. BRADFORD: I have stated my language as clearly as I can, and under the full knowledge of the responsibility it conveys. The reporter can so report it. When I make a charge against any particular individual, I will mark him, and point him out. I did not intend to make any personal reflections.

I do not intend, Mr. Speaker, to discuss this question strictly according to the rules of argumentation. Great latitude has been taken by gentlemen on both sides, and much irrelevant matter introduced. I do not think I should speak at all, were it not absolutely necessary to defend my course from charges which have been made by the advocates of election. These gentlemen have published an address, in which they animadvert with much severity upon the opponents of this measure. I regret to see this rupture in the Democratic party, and much more regret to see a portion of its members hurling spiteful and deri-

sive epithets at the others, to induce them to support a measure which they believe wrong in every point of view, at this session. The address of the opponents of this election is a plain, frank statement of their opinions, without the slightest personality or imputation upon the motives of others. I regret that the same spirit is not fully reciprocated in the address of the friends of the election. I consider that an extraordinary document. Its assumptions are astounding; its doctrines show a political profligacy that amounts to desperation. It distrusts the ability of the people to see and judge for themselves on this question, and hence violates one of the main principles of the Democratic party, which places its reliance on the intelligence of the people.

Why is it that gentlemen are determined to force this election on, when remonstrances are daily presented here against it from every section of the State, demanding that it shall be postponed to the next Legislature.

This fact shows that the people are excited on the subject—are becoming aroused to its great importance, and the Democratic party should never refuse to submit an issue of such magnitude to their decision.

This would conciliate both wings of the party and settle for the present a question that has been a great clog upon the legislation of this session. But the advocates of election refuse to do this; they will have the election if it consume the entire session.

As another argument for submitting this to the people, I can tell the gentlemen that they have heard these "Voices from the Mountains," in which it is asserted that if the election is had this session the cry of "repeal" shall be sounded from one end of the State to the other. It is well known also that the right of office cannot vest till after the 4th of March, 1855; so that if this and the next Legislature should elect we will have two applicants for the seat knocking at the door of the U. S. Senate on the first Monday of December, 1855. And the one who comes last from the people will, beyond doubt, obtain this seat. The address of the electionists says that if this question is allowed to enter into the campaign next fall it will defeat the Democratic party, and the people are now threatening that if the election is brought on this session the cry of "repeal" shall be heard throughout the State, so that this question must enter into the next campaign. Then, sir, to conciliate the party I urge that the whole subject may be left to the people. They I have never been wrong.

In all great political emergencies, when the Republic has been shaken to its centre by the violence of contending factions, the people have come nobly to the rescue and sustained that policy which has had justice and right for its foundation, and thus saved our common country from danger and disgrace. If their voice is now disregarded they will be heard again on this very question. They will speak with a voice of thunder, and with the effect of lightning. No man can escape it; it will come like the tread of an earthquake, and shake the whole land. I warn gentlemen to beware how they treat the demands of the supreme power of the State.

One of the reasons named in the address for an election this session is "Because the Democratic party, assailed anew by the revived machinations of the Whigs and Democratic bolsters of the late campaign, require at our hands prompt action and sudden check," and "we trace the connection between these incongruous elements from the date of the Secret Circular which was to rive the Democracy in twain and construct on its ruins a Convention Whig party."—Page 4.

Such are the broad assertions of this Address, issued with all the pomp and circumstance of authority, and under the sign-manual of those who style themselves the true Democracy! I desire to know from the gentlemen who signed this document if these charges are applied to the Democratic members of this

House who are opposed to the election this session. I pause for an answer.

Mr. Hubbard—I can say, Mr. Speaker, that I am one who signed that Address, and the charges were not intended to apply to the gentleman from San Joaquin, nor to the Democrats on this floor who oppose the election, but to outside coalitions.

Mr. Bradford—I am glad to hear the admission, but I cannot account for these charges having been made in such a form, unless they were intended to go before the people at large, to fill their minds with prejudice and induce the belief that the "bolters," as we are craftily called, had actually conspired with the Whigs to ruin the Democratic party. I pity the meanness of the man who can make such a charge and will not descend to measure the contempt in which he should be held by all honorable men. Sir, the charges as applied to us are totally false. The charge that Whigs met with us at our first meeting is a slander and falsehood, and the man who first uttered it knew it at the time. Our second meeting was public. The charge that we have made for any purpose whatever, is a malignant slander, a treacherous lie. I know that the engines of calumny and detraction are incessantly at work to pollute the public mind with the foulest kind of misrepresentations. Sir, I have an ineffable scorn an unmitigated contempt for that man who can stoop from the high estate of truth and fact to secure a triumph by the use of false assertions and filthy backguardisms.

On page five of the Address it is said: "The silence of the Constitutions of both State and Union, was a direct reference of the point of time to the discretion of the Legislature." There is no State law fixing the time of the election, and this is an admission of that fact. The time was left to the discretion of the Legislature.

On page seven, however, we have the following remarkable words, that there is law: "Law and practice—the Constitution and the weight of custom, all repose on our side, and each will be violated and our rights foregone if the election be illegally postponed."

But there is no law compelling the election to be had this session, and in their own words the Constitutions of both State and Union are silent as to time. They claim that practice and the weight of custom are on their side, but cannot produce a single example to sustain their position. All their assertions are based upon the assumption that this is the legislature next preceding the vacancy, while every school boy in the land knows that this cannot be, as another legislature must intervene between this one and the 4th March '55, when the vacancy occurs. Then how is it possible to "illegally" postpone an election that has never been prescribed by law for this session. There is nothing to make this the "legal and proper session" but the mere *dictum* of interested parties, and they know it. Hence the boldness with which assertions are made, and the tenacity with which they are maintained. The Constitution of the U. S. has left the fixing of the time of this election to the States, and every State in the Union has placed this construction upon that clause, that the Legislature *last* in session preceding a vacancy shall be the proper one to elect. But the writer of this Address has discovered that the States have all been wrong in this construction; that they never understood the Constitution of the United States; that the whole practice of electing Senators hitherto by the States is a precedent that California never ought to follow! The idea that she is bound by any precedent, however sacred and just, is absolutely ridiculous! This is the doctrine of the true Democracy.

I now quote from page five of the address. In speaking of the opponents of the election they use the following:

"They object, first, to the constitutionality of an election this winter, and insist that it is out of time; in short, too early by a year. On this subject we find the following, in the Constitution of the United States:

Art. 1, § 3. "The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years.

§ 4. "The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

This is all the authority we find in the general charter of the government on the subject under consideration, and upon its warrant, the State of California, on the 30th of January, 1852, passed an Act regulating the manner of electing its U. S. Senators; but aware, like the U. S. Government, that no general rule could be prescribed to meet the unforeseen exigencies of all the States, it wisely abstained from fixing any special time for holding such elections. The silence of the Constitutions of both State and Union, therefore, was plainly a direct reference of the point of time to the discretion of the Legislature.

Constitutions are the carefully prepared Supreme Law of States. They are the work of patient inquiry and careful deliberation. Within their scope nothing is overlooked—nothing is done in a hurry. Whatever they do not prohibit, they permit; nay, in omissions such as the one before us, they ordain; and their refusal to fix a time for such an important event as the election of a U. S. Senator, is a direct reference of that subject, in its most extended bearings, to the discretion of the State Legislature."

The importance of the subject is the apology for the length of the quotation. The doctrine here laid down is Federalism, so

repulsive in its character that the strongest friends of even Gen. Hamilton, would have shrunk from its paternity. "What Constitutions do not prohibit they permit." The advocates of election have applied this doctrine to the Constitution of the United States. I charge it upon them and they cannot escape it. They will say, however, that they referred to the Constitutions of the individual States, but I will bring the gentlemen from Yuba, Mr. Jones, to contradict them, and prove my assertion to be true. That gentleman signed the address, and here, to-day, he has made an express application of this doctrine to the Constitution of the United States; and for the purpose of convincing us that he is right as an advocate of this election.

I will make a short quotation from Mr. Madison's opinion of the powers of the Constitution, to contrast it with the opinion of the advocates of this election as expressed in their address, and in this debate:

"The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State Governments are numerous and indefinite. —[*Wilde Federalist*, page 218.]

Sir, I leave it to the people to decide which is the correct doctrine. Will they take the opinion of James Madison, the father of the Constitution, or will they take the opinions of the advocates of election, as expressed in their address, and on this floor to-day. "What that Constitution does not prohibit, it permits."

I hold this to be the rankest of Federal doctrines. The oldest champions of our party never warred against a doctrine more dangerous in its consequence than this. The doctrine of the Democratic party since the days of Jefferson has been a strict construction of the organic law of the Republic. The gentleman from Yuba, Mr. Jones, says there is nothing in the Constitution of the United States prohibiting the election of Senator this session, *therefore it is permitted!* This is begging the question and would lead to absurdities, but it proves their application of this doctrine to the constitution of the Union. The constitution does not prohibit the incorporation of a United States Bank, therefore it is permitted! The constitution does not prohibit the North from interfering with the domestic institutions of the South, therefore it is permitted. How absurd! The people sustained the Bank veto issued by Gen. Jackson in 1832, and the idea of an institution of that kind has now become obsolete. The Supreme Court of the United States once decided a bank constitutional, but the people have reversed that decision. The Democratic party rebuked the spirit of aggression manifested by Northern fanatics against the rights of the South, and by its ardent advocacy and strict adherence to the compromise measures, in the last Presidential election became the party of the nation. Nevertheless what is not prohibited is permitted!

The doctrine of our party has always been: *What the Constitution of the United States does not permit, it prohibits;* and the close observance of this doctrine by the tried leaders of the Democratic party has secured to the Republic much of its present prosperity and total exemption from dangerous monopolies. But again to the quotations: "Nay, in omissions, such as the one before us (the time of election) they ordain." Can a thing be ordained that is not ordered, expressed or established! To ordain is to establish by authority. The extract says that the constitutions of State and Union are silent as to the time, and therefore they ordain the time at this session of the Legislature!

That there is a principle involved in this question, and that it will be violated if the election be forced on this session, will appear plain, I think, to the comprehension of every unprejudiced mind. I read from page twelve of the Address:

"The question was purely a caucus question. There was no principle to be considered; that had been established by the State and National Constitutions, *clenched by the usage of the country!*"

The principle "had been established by the State and national constitutions, and clenched by the usages of the country. This is true. But I ask what had been clenched by the usages of the country?" It is the principle of electing United States Senators. The Constitution of the United States gives to each State the right of fixing the time. The usage of the country has been that the time should be the last legislature in session preceding a vacancy. By the word "country," I would not say that the address means our State, but the free republics comprising the Union. The construction that every individual State has placed upon this clause in the national constitution is that the Legislature next preceding a vacancy is the proper one to elect.

This construction has assumed the shape of a principle because it is "clenched by the usage of the country." There is not a single exception to the rule. The gentleman from Yuba, Mr. Jones says that Georgia elects this winter, and the term of one of her Senators expires 4th March, 1855. I admit this. But every one knows that her Legislature meets biennially, whereas our sessions are annual. Ohio and several other States elect this winter, but they also have biennial sessions. Their Legislatures now in session are the next preceding the vacancies, and confirm the rule.

I therefore believe that from the uniform construction of the Constitution of the United States, that the election this session would be a violation of principle. But the advocates of election claim that this is the session next preceding the vacancy. Sir, I scarcely know how to characterize the boldness of this sophistry. It contains the suggestion of falsehood by the suppression of truth. How is it possible that this can be the session when another Legislature must intervene between this Legislature and the commencement of the vacancy? "Next," means nearest to



and "preceding," means *going before*, and literally it is the Legislature *nearest to and before* the vacancy. The next Legislature will meet on the first Monday of January, 1855, and Dr. Gwin's term expires on the 4th March, when the vacancy begins. And yet by the advocates of election this is proclaimed the next session preceding the vacancy! Sir, I am surprised at nothing now-a-days, and this attempt to deceive the people by playing upon technicalities is only in consonance with the efforts to force on the election at this session.

The friends of this measure assert in their address that "they desire to see California act independently and to reject, if she like, the thralldom of old opinion." I am forced to believe that no custom, usage or opinion, however sacred, could induce the friends of this measure to forego their efforts to bring on the election. I hope I may never see the time when California will reject the enlightened opinions of our common country. We are an anomaly in the history of States. And while we have the richest materials in the world with which to build a great empire on this western coast, still we should be careful how we lay the foundations of a State that she may correspond with the beauty and the grandeur of the structures reared by our fathers before us. Sir, the slightest encroachment upon the time honored principles of our nation should meet with an indignant rebuke. America herself is a precedent against tyranny and despotism and in favor of freedom of thought, liberty of speech and written constitutions. The principles of our government have become firm and enduring. They conflict with no interest of our State, no rights of our people. Hence it is our duty to recognize and acquiesce in them. All the confederated States have united in the construction upon the Constitution of the United States that the next Legislature preceding the vacancy is the proper one to elect, and to this construction, thus becoming a principle by being "clenched by the usage of the country," it is our duty to defer.

They assert that the election next session, "will be unjust to the member selected because it banishes him, who has served his State sufficiently well to be rewarded, to a six years exile, at an hour's notice," that it would restrict "the period for his preparation" to enter the Senate and that our "distance from the National Government" is to be considered. I admire the ingenuity of the mind that can coin such reasons for the election of a Senator this session. Ponderous and weighty arguments indeed! History informs us that it was the custom in the pure democracies of Greece to ostracise those who had incurred the displeasure of the populace. Aristides is an example of the severity of that system, but it was left to the ingenuity of this mind to make the application to the State of California! In Greece they banished men in disgrace; in California it is urged we banish them when we confer the highest honor, except one, known to the republic. And it is also said "at an hour's notice," when it is universally known that the Senator if elected next session, cannot take his seat till the 1st Monday of December following. How lame and impotent are these assertions! But the member selected must have "time for preparation!" Sir, I would blush to advance the claims of any candidate, who had to undergo a probation, to study the wants of our people before he could stand up and properly defend the interests of our State on the floor of the United States Senate. The man who aspires to such a lofty honor should know every want of our people, without having first to study the varied interests of our State. This argument of time for preparation is certainly no compliment to the gentleman whom the advocates of election so ardently support.

How extremely weak are such arguments when everybody knows that if the next Legislature should defer the election till March, the successful aspirant will then have ten months for preparation before he is obliged to take his seat.

"The distance from the seat of government is something." It would indeed be something if we had to go in sailing vessels or by stage coach. But the laws of physics have brought us nearer to the city of Washington than Missouri was in 1820. The progress of science and the mechanic arts has annihilated distance, and the argument now is not half so good in California as it would have been in any of the Western States thirty years ago.

If I were to attempt, Mr. Speaker, to take up the charges which this Address makes in detail, I should not only weary myself, but tire out the patience of the House. It is a magnificently concocted scheme for Buncombe, splendidly illustrated with high sounding words and shallow assertions, schemingly sprinkled with epical slanders to fill the minds of the people with a bitter and unrelenting prejudice against the very men who have dared to stand up here in defence of their rights.

The address tells us that "it is a maxim in politics that the King never dies." Magnificent idea! Stupendous conception! Unrivaled discovery! I suppose every body knows that it is a maxim in law. And the politicians will be indebted to the writer of this address for its first application to the science of politics. I read from page 12 of the address—

"It is true, majorities are sometimes wrong, but minorities must bear in mind, that they are in danger of becoming criminal, according to the law of party, in not abiding by their verdicts—right or wrong."

Sir, I hold this to be monstrous doctrine, but am not surprised at its utterance, when these gentlemen know it may have the effect of scaring timid Democrats into the support of the bill to bring on the election this session. No one knows the influence better than these gentlemen, that a constant harping upon

"party laws," "party usages" and "Jeffersonian customs," has had upon the minds of honest Democrats of this Legislature. The thought of running counter to these, has frightened them from the propriety of honestly formed opinions, and for every infringement of conscience and principle they can take shelter under the "law of party." The game has been played to win, and with outside influences, has been most successful.

Minorities become criminal in not submitting to the verdict of the majority right or wrong? Such an argument would de-throne liberty itself, and make the freedom of speech a mockery. The most corrupt legislation that was ever had; the most stupendous frauds which have ever been committed under the mantles of legality or of party, would stand as monuments of the enormity of this doctrine were it recognized throughout the land. I recognise no party law as superior to the interests of the State and the rights of the people. The thunders of an excommunication from the self-styled pure Democracy has no terrors for me. When a party fails to become the proper instrument of the people to effect certain salutary measures or healthy reforms in government, and is perverted to the ends of private ambition and self-aggrandizement, I will turn from it with disgust, and shall seek to justify my course before the source of power, rather than before the bar of self-constituted party leaders. The men who subscribe to the most ultra Federal doctrine shall not be my teachers in the school of Democracy. I hold that the election this session would be in violation of the great fundamental principle of our government, that as the people are the source of power, so have they an inherent right to express their opinions and claim their choice in as important an election as this. Is it for one or two years that a Senator is elected? If it were for this period only it would not be such a hardship. But the man who is successful is "banished" for six years with half the honors of a magnificent state upon his back! Six years must be his banishment before he is compelled to return and lay down his robes of office at the feet of the people. And notwithstanding the people and their agent are to be separated so long, yet we are told it is unnecessary to consult them in this election, it will throw a fire brand into the party and perhaps cause our defeat! Fie upon such doctrine. It distrusts the people and denies their supremacy. It violates one of the most beautiful features of our government by taking the election as far as it can, away from the people, instead of bringing it down as near as possible to them.

The people have spoken on all great subjects, and they should be heard on this. It may add spirit to the contest, but what of that? The people will have an expression of their choice and will be satisfied. The precincts will speak before the townships; the townships before the counties; the counties before the State. If the friends of Mr. Broderick or Mr. Gwin, or any other aspirant, are in the majority they will rule the precinct, or the township, and finally the County Convention, which makes the nominations for members of the legislature. Thus will the people obtain their choice, and this is the only way under the present party organization. The republican principle demands that the deliberative sense of the people should be consulted on all great questions. Hence it has been wisely said that "Senators are elected by an indirect application of universal suffrage; for the Legislatures which name them are not aristocratic or privileged bodies which exercise the electoral franchise in their own right."

The Legislature on a question of this magnitude is the mere instrument through which speaks the popular voice. Where rests the sovereignty of a State? Most assuredly in the people, not in their officers, except as delegated to them for a limited time and for defined purposes.

The opponents of this election are charged by the papers friendly to it with the responsibility of bringing this issue before the Legislature and delaying legislation at the expense of the State, when it is a notorious fact that this Address contradicts the friends of the election, both the orators and the press, when it asserts on page four that the *spite* of the opposition is waged "through a motion for postponement in order that the question may be thrown like a firebrand into the next canvass." How can the friends of this measure reconcile these absurd and contradictory charges. The gentleman from Calaveras, Mr. Gordon, introduced this bill to fix the time of holding the election at the next session of the Legislature, but the advocates of election are not willing to postpone, and the gentleman from Placer, Mr. Myers, has introduced an amendment to the bill to bring on the election next Monday week. We desire the postponement that we may proceed with the legitimate business of the session, but they will not agree to this and hence the agitation of the subject to the exclusion of almost all other business, and at an enormous expense to the State. Then where rests the blame? But the unpardonable sin of the opponents of the election is, that they would not submit to sign a pledge to give up their opinions and submit silently to the dictation of a caucus. The pledge to that caucus call was unusual, unheard of. It was a gag upon opinion, a trick sprung by the interested friends of the measure, to whip timid democrats into the ranks. They would not dare bolt a caucus; they would not dare to resist "a Democratic custom since the days of Jefferson!" Even if they knew that the will of the people was outraged, they could jump behind the caucus call and screen themselves from responsibility. If they knew the popular voice had already condemned the effort to bring on the election this session, still they could jump behind a "Jeffersonian custom," and hold up the caucus system between themselves and an insulted constituency!



I challenge the advocates of election to produce a single example, a single fact to prove that their call was in accordance with Democratic custom. Sir, it was in direct violation of this usage.

The following is a correct copy of the pledge:—

"And we agree and pledge ourselves to abide by and give our support to such order and decision as the majority of said caucus may make in the matter referred to." (The election of United States Senator.)

The Democrats with whom I have acted on this question, urged upon the friends of the caucus to strike out this pledge, and we would all go into caucus together. We could then meet upon the level and act upon the square. But no, no; the offer was rejected, and I still insist that it was a trick on the part of the advocates of election. Yes, Sir, and it succeeded. Out of the fifty-two members who appeared in caucus, forty-four were in favor and eight against the election; some from principle, others from policy. But these eight had signed the pledge, and no matter whether they believe the election unconstitutional, bad policy or destructive of principle, they can now hold up the pledge of the caucus to screen themselves from the responsibility of an act which they believe wrong!

Sir, I had formed my opinion of this question; I had carefully examined it in all its bearings, and had come to the conclusion that it would be a violation of principle to bring on the election at this session. My opinion coincided with thirty-eight Democrats of the two Houses, men whose characters stand as fair as any others in the State. But because we would not sign the caucus pledge; because we would not banish our scruples of conscience, relinquish principle, agree to call bad policy good, we must be "forever" damned by the self-constituted *true Democracy* and excommunicated from the party. Well, Sir, a party becomes utterly worthless when it forsakes principle, and as these gentlemen have abandoned principle for men, the sooner they ostracize themselves, the better it will be for the Democratic party. I know it has been the custom of our party to meet in caucus, and I hope the custom will be continued, not in its present distorted form, but in its original purity, but I defy the gentlemen to prove that it has ever been the custom to require written pledges. At our National Legislature the party holds caucuses every session, but no written pledge is required. On the tariff of '46 there were perhaps twenty-five or thirty caucus meetings, but no pledges were demanded. This doctrine of blind obedience of the whole party to the order of a caucus, on questions involving principle and constitutional right, would violate the dictates of conscience, destroy the separate independence of the two branches of our State Legislature, and absolutely nullify the Constitution of the State.

There are now one hundred and fourteen members in both branches of the Legislature, thirty-four in the Senate and eighty in the Assembly. There are twenty-six Democrats in the Senate and seventy-one in the Assembly. The 16th section of Article 4th of the Constitution of this State says: "Any bill may originate in either House of the Legislature, and all bills passed by one House may be amended in the other." Now if fourteen Democrats of the Senate and thirty-six of the Assembly (fourteen less than a majority of both Houses, but a majority of the Democrats) should meet in caucus and decide upon the passage of a bill in a particular form, no Democrat could offer an amendment in either House, no Democrat could object to its passage, no Democrat could raise his voice against it, however glaringly inconsistent or unconstitutional he might think its provisions. And why? Because the advocates of election have proclaimed the doctrine that according to the law of party, minorities become criminal in not abiding by the verdicts of the majority right or wrong! Thus we see that fifty Democrats, less than a constitutional majority of the Legislature, could force any measure through, from the mere fact that the order of a caucus, a "Jeffersonian custom," has become the omnipotent law of the Democratic party! Sir, this would make the minority in all cases mere passive instruments, absolute beasts of burthen, to bear quietly any load that might be placed upon their backs by the order of a caucus.

No, Sir, this pledge to a caucus call is wrong; it will destroy the good intended to be effected, and men will look with suspicion and distrust upon the whole system. A good system may be perverted to bad purposes. That which was intended to facilitate party action and concentrate opinions has been distorted to subserve personal interests.

I desire to read another extract from this delectable document. In speaking of the danger of postponing this election until the next Legislature, the following words are used on page thirteen:

"Dangers like this had been foreseen by Jefferson, and to that foresight do we owe the maxim, that 'whenever the Democratic party forgot its measures, and entered the political field simply for men, it was no longer a party, but a congregation of factions.'"

How stands the truth of this assertion? Sir, I throw it back upon the advocates of the election, and assert that it applies with tenfold more force to them than to the bolters, as they so complacently call us. There are times in the history of parties when the leaders should give way for the party good. Such a crisis has arrived, in my opinion, in this State; but the sacrifice cannot be made. This contest is basely a selfish one. The struggle has become individualized, and the question is now not the success and harmony of the Democratic party, but whether the sole aspirant for Senatorial honors shall withdraw his claims

or shall the people succumb and bow to his dictation. It is a contest of an individual against a multitude. It is a contest of organized wealth and political recklessness against poverty and principle. It is a contest of a bold, active and thoroughly disciplined faction, with their leader at their head, against the masses of the people acting separately and independently, without a leader, without an organization, and held together by the intrinsic merits of the cause they advocate.

Sir, I charge it upon the advocates of his election that they have deserted the standard of their party, to subserve the purposes of the sole aspirant for the position of Senator at this session. I tell the gentlemen what they know, that if Mr. Broderick was not a candidate this question never would have been sprung upon this Legislature. If Mr. Broderick would now withdraw, the contest would cease and the excitement die away with his absence from the Capital. Against this gentleman I have nothing, personally or politically. I think the good of the party should have dictated to his friends a very different course.

For myself I boldly aver that every conviction of principle and right, induce me to say that I would not vote for any living man at this session. And I believe I can assert the same of all or nearly all of the Democrats with whom I have the honor to act. Then, Sir, the quotation from Mr. Jefferson recoils with double effect upon the heads of the advocates of election. They have deserted the standard of their party not for men, but to enter the political field simply for one man. They have forgotten the measures of their party and now seek to pervert by trick and subterfuge, the pure doctrine of the Democratic party to the advancement of a single man against the voice of the people.

Mr. Speaker, I will make one more quotation from this Address and have done.

"The time is ripe for judgment. The crisis has arrived for action. The masses of the State are examining the roll, and as the soldiers answer, they take sides forever. The Senatorial question is the test."—Page 15.

The Democrats of the Legislature are "the soldiers," I presume. Perhaps the generosity of the writers of this Address would permit me to include the Democrats of the State. I know this would be an act of extreme condescension. As they answer on the Senatorial question they must take sides for or against the Democratic party forever! If I ask the advocates of election by what authority they read their opponents out of the party, they will say by order of the caucus. If I ask them whether the Democratic masses of the State have ordered this, they will say no, but where they are silent, they "ordain," therefore you must go. If I ask them whether the Democrats of the State have not prohibited this excommunication, they will answer no, but the caucus doctrine is that what is not prohibited is permitted, therefore you must depart from the folds of Democracy!

Sir, I feel mortified and humiliated at the audacity and presumption of men who have assumed a democratic virtue when they have it not, have grasped a power that never was allowed them, and now proceed schemingly and cunningly to read men out of the party who have dared to express an honest opinion against what they believe an unwarrantable act. It is the censorship of the most despotic governments, applied to the free republic of California. It is a palpable truckling to individual interest, against the broad, liberal, democratic sentiment. It is the proscriptive spirit of the Federalism of 1800, transused into the self-styled true Democracy of the Pacific State in 1854. If the doctrine preached in this address is true Democracy, I never was a Democrat. I owe my allegiance, not to the signers of this address, but to the principles of the Democratic party. I defy any excommunication they may hurl against me. I prefer to sink in the advocacy of a principle than to rise with the so-called true Democracy, on what I regard a monstrous assumption of power.

Sir, my Democracy has never before been questioned. In the last State campaign my colleague and myself packed throughout our county the unpopularity of some of our candidates, and defended them against the slanders of their enemies even at the sacrifice of personal friends. We succeeded in a contest where the election of Senator never was mentioned. We came to the Capital of the State where we find the friends of Mr. Broderick industriously engaged in trying to bring on this election. We ask why is this, and are answered on the first page of the address that it is "one of the legitimate avails of the late State contest." Who asserts it? Is it the Democracy? I have never heard their voice. Is it the Governor of the State? He has no authority to barter away the rights of my constituency.

No Sir, it is not the Democracy, but the friends of Mr. Broderick. It is they who proclaim that the election shall come off, as "a legitimate avail of the late contest," and that men who dare oppose it shall be branded as bolters, traitors, disorganizers of the party! Well, let them brand. Their acts can never drive me from the party. I love the Democratic party, but not the demagogues who would turn it away from its high and noble mission to accomplish private schemes and selfish purposes.

It has always been the party to seize upon the pure current of feeling, and the elevated thoughts of the masses, and mould them into forms of wealth, prosperity and advancement. It is the party of progress, because it reflects the true sentiments of the people, and I hope to see its star always in the ascendant while it stands by the Constitution of our country and the principles of morality and justice.



SPEECH

OF

HON. D. C. BRODERICK,

OF CALIFORNIA,

AGAINST THE

ADMISSION OF KANSAS,

UNDER

THE LECOMPTON CONSTITUTION.

DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH, 23, 1858.

WASHINGTON:  
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1858.





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HON. DAVID C. BRODERICK,  
OF CALIFORNIA,  
AGAINST THE  
ADMISSION OF KANSAS.

DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH 22, 1858.

The Senate having under consideration the bill [S. 161] for the admission of the State of Kansas into the Union—MR. BRODERICK said:

MR. PRESIDENT: In December last, when the President's message was under discussion, I promised, that if ever the Lecompton constitution was presented to the Senate, I should have some opinions to express in regard to it. Since then the whole subject has been so thoroughly debated that little remains to be said, and, I would not now detain the Senate, if it were not for views expressed by Republican Senators in favor of a restoration of the Missouri compromise, and, particularly, the opinions expressed by the Senator from New York, (MR. SEWARD,) in which he regrets its repeal.

Sir, if it had not been for the repeal of the Missouri Compromise, there would now be no Republican party in existence. Instead of uttering regrets at its repeal, the Republican party in the North should rejoice that it made the territories a common battle-field in which the conflicting rights of free and slave labor might struggle for supremacy.

The history of the Missouri Compromise can be briefly told. It was passed by Southern votes. The few Northern men who supported it, were consigned to oblivion immediately on their return to their constituents.

At the time it passed, it was considered a triumph for the South. The South rejoiced at the victory. The North, after

a murmur of discontent, gave in its adhesion. At the time, the constitutionality of the act was not questioned. It received the endorsement of Mr. Monroe and his cabinet, the majority of whom were Southern men. For twenty-five years tranquility reigned throughout the country.

Early in the session of 1845, a joint resolution was introduced in the House of Representatives, for the admission of the Republic of Texas as a State into the Union. This resolution reaffirmed the Missouri Compromise. It passed the House of Representatives, obtaining almost the unanimous votes of Southern members. It passed this body by Southern votes. Thus, it will be seen, this re-enactment of the Missouri Compromise was conceived by Southern men, and brought into existence by Southern men. The South exultingly claimed it as another victory over the North.

Among the Senators who addressed this body on the question, was the present President of the United States. I quote from his speech. Mr. Buchanan said :

"He was pleased with it (the renewed Compromise) again, because it settled the question of slavery. These resolutions went to re-establish the Missouri Compromise, by fixing a line within which slavery was to be in future confined. That controversy had nearly shaken the Union to its centre in an earlier and better period of our history; but this Compromise, should it be now re-established, would prevent the recurrence of similar dangers hereafter. Should this question be now left open for one or two years, the country could be involved in nothing but one perpetual struggle. We should witness a feverish excitement in the public mind; parties would divide on the dangerous and exciting question of abolition; and the irritation might reach such an extreme as to endanger the existence of the Union itself; but close it now, and it will be closed forever.

"Mr. B. said he anticipated no time when the country would ever desire to stretch its limits beyond the Rio del Norte; and such being the case, ought any friend of the Union to desire to see this question left open any longer? Was it desirable again to have the Missouri question brought home to the people, to goad them to fury? That question between the two great interests of our country had been well discussed and well decided; and from that moment Mr. B. had set down his foot on the solid ground then established, and there he would let the question stand forever. Who could complain of the terms of that Compromise? It was then settled that north of 36 degrees 30 minutes, slavery should be forever prohibited. The same line was fixed upon in the resolutions recently received from the House of Representatives, now before us. The bill from the House for the establishment of a territorial government in Oregon, excluded slavery altogether from that vast country. How vain were the fears entertained in some quarters of the country that the slaveholding



States would ever be able to control the Union! While, on the other hand, the fears entertained in the South and West, as to the ultimate success of the Abolitionists, were not less unfounded and vain. South of the Compromise line of 36 degrees 30 minutes, the States within the limits of Texas applying to come into the Union, were left to decide for themselves whether they would permit slavery within their limits or not. And under this free permission, he believed with Mr. Clay (in his letter on the subject of annexation,) that if Texas should be divided into five States, two only of them would be slaveholding, and three free States."

Can it be possible, that the man who uttered these sentiments could be chosen as the mouth-piece to foreshadow the opinion of the Supreme Court, in which the constitutionality of the act is denied; or, that the attorney who argued the case against the slave Dred Scott, and, in accordance with the opinion of the Court, could, when a Senator on this floor, have used the following language. Yet it is recorded, that Mr. Reverdy Johnson, of Maryland, said:

*"He believed in the existence of the power in Congress to pass a law to prohibit slavery, and if such a law were presented to the Supreme Court for a decision on its constitutionality, it would be in favor of the law. As a judicial question, the decision would be against protection to the South. On a bill providing territorial governments for Oregon, California, and New Mexico, he had said that he should himself have submitted an amendment adopting the line of the Missouri Compromise, had he not been anticipated in his motion by a Senator from Indiana (Mr. Bright.)"*

The marked feature of this opinion is, that the Constitution is extended over the Territories. The "great expounder of the Constitution" (Mr. Webster) differed from the Supreme Court. I will read his remarks on the subject, which were called forth by an amendment offered by Mr. Walker, of Wisconsin, providing a territorial government for the territory acquired by the treaty of peace with Mexico. Mr. Webster said—

"It is of importance that we should seek to have clear ideas and correct notions of the question which this amendment of the member from Wisconsin has presented to us—and especially that we should seek to get some conception of what is meant by the proposition, in a law, to 'extend the Constitution of the United States to the Territories.' Why, sir, the thing is utterly impossible. All the legislation in the world, in this general form, could not accomplish it. There is no cause for the operation of the legislative power in such a manner as that. The Constitution—what is it? We extend the Constitution of the United States by law to Territory! What is the Constitution of the United States? Is not its very first principle, that all within its influence and comprehension shall be represented in the legislature which it establishes, with not

only a right of debate and a right to vote in both Houses of Congress, but a right to partake in the choice of the President and Vice President? And can we by law extend these rights, or any of them, to a Territory of the United States? Every body will see that it is altogether impracticable. It comes to this, then, that the Constitution is to be extended as far as practicable; but how far that is, is to be decided by the President of the United States, and therefore he is to have absolute and despotic power. He is the judge of what is suitable and what is unsuitable; and what he thinks suitable is suitable, and what he thinks unsuitable is unsuitable. He is '*omnis in hoc*;' and what is this but to say, in general terms, that the President of the United States shall govern this Territory as he sees fit till Congress makes further provision. Now, if the gentleman will be kind enough to tell me what principle of the Constitution he supposes suitable, what discrimination he can draw between suitable and unsuitable which he proposes to follow, I shall be instructed. Let me say, that in this general sense there is no such thing as extending the Constitution. The Constitution is extended over the United States, and over nothing else. It cannot be extended over anything except over the old States and the new States that shall come in hereafter, when they do come in. There is a want of accuracy of ideas in this respect that is quite remarkable among eminent gentlemen, and especially professional and judicial gentlemen. It seems to be taken for granted that the right of trial by jury, the *habeas corpus*, and every principle designed to protect personal liberty, is extended by force of the Constitution itself over every new Territory. That proposition cannot be maintained at all. How do you arrive at it by any reasoning or deduction? It can be only arrived at by the loosest of all possible constructions. It is said that this must be so, else the right of the *habeas corpus* would be lost. Undoubtedly these rights must be conferred by law, before they can be enjoyed in a Territory."

In reply to Mr. Calhoun on the same subject, he argued:

"The Constitution, as the gentleman contends, extends over the Territories. How does it get there? I am surprised to hear a gentleman so distinguished as a strict constructionist, affirming that the Constitution of the United States extends to the Territories, without showing us any *clause* in the Constitution in any way leading to that result; and to hear the gentleman maintaining that position, without showing us any way in which such a result could be inferred, increases my surprise.

"One idea further upon this branch of the subject. The Constitution of the United States extending over the Territories, and no other law existing there! Why, I beg to know how any government could proceed, without any other authority existing there than such as is created by the Constitution of the United States? Does the Constitution of the United States settle titles to land? Does it regulate the rights of property? Does it fix the relations of parent and child, guardian and ward? The Constitution of the United States establishes what the gentleman calls a confederation for certain great purposes, leaving all the great mass of laws which is to govern society to derive their existence from State enactments. That is the just view of the state of things under the Constitution. And a State or Territory that has no law but such as it derives from the Constitution of the United States, must be entirely without any State or Territorial government. The honorable Senator from South Carolina, conver-



sant with the subject as he must be, from his long experience in different branches of the Government, must know that the Congress of the United States have established principles in regard to the Territories that are utterly repugnant to the Constitution. The Constitution of the United States has provided for them an independent judiciary; for the judge of every court of the United States holds his office upon the tenure of good behavior. Will the gentleman say that, in any court established in the Territories, the judge holds his office in that way? He holds it for a term of years, and is removable at Executive discretion. How did we govern Louisiana before it was a State? Did the writ of *habeas corpus* exist in Louisiana during its territorial existence? Or the right to trial by jury? Who ever heard of trial by jury there before the law creating the territorial government gave the right to trial by jury? No one. And I do not believe that there is any new light now to be thrown upon the history of the proceedings of this Government in relation to that matter. When new territory has been acquired, it has always been subject to the laws of Congress—to such laws as Congress thought proper to pass for its immediate government; for its government during its territorial existence, during the preparatory state in which it was to remain until it was ready to come into the Union as one of the family of States.”

At a later period in the debate he said :

“The honorable Senator from South Carolina argues, that the Constitution declares itself to be the law of the land, and that therefore it must extend over the Territories. ‘The land,’ I take it, means the land over which the Constitution is established; or, in other words, it means the States united under the Constitution. But does not the gentleman see at once that the argument would prove a great deal too much? The Constitution no more says, that the Constitution itself shall be the supreme law of the land, than it says that the laws of Congress shall be the supreme law of the land. It declares that the Constitution, and the laws of Congress passed under it, shall be the supreme law of the land.”

Mr. President, the Missouri Compromise was again reaffirmed in 1848, on the passage of the Act creating a territorial government for Oregon.

The discovery of gold during the same year in California, rapidly gave that territory a population, three-fourths of which was from the free States. The necessity for some form of government compelled the people of California to frame a constitution which, in obedience to the doctrine of popular sovereignty, was submitted to the people, and adopted with a clause prohibiting slavery. There were but about five hundred votes against the adoption of this constitution. This small opposition did not arise because of the anti-slavery clause, but because many of the people believed that the time had not arrived for the formation of a State government.

When California applied for admission with this Constitu-

tion, the South refused her admission. Mr. Davis, of Mississippi, demanded the extension of the Missouri line to the Pacific ocean, and the recognition of slavery on the South thereof. In the debate on this subject he used the following language :

"I here assert, that never will I take less than the Missouri Compromise line extended to the Pacific Ocean, with the specific recognition of the right to hold slaves in the Territory below that line; and that, before such Territories are admitted into the Union as States, slaves may be taken there from any of the United States, at the option of their owners."

This brought Mr. CLAY to his feet, who said :

"I am extremely sorry to hear the Senator from Mississippi say that he requires, first, the extension of the Missouri Compromise line to the Pacific, and also that he is not satisfied with that, but requires, if I understood him correctly, a positive provision for the admission of slavery south of that line. And now, sir, coming from a slave State as I do, I owe it to myself, I owe it to truth, I owe it to the subject, to say that no earthly power could induce me to vote for a specific measure for the introduction of slavery where it had not before existed, either south or north of that line. Coming as I do from a slave State, it is my solemn, deliberate, and well-matured determination, that no power—no earthly power—shall compel me to vote for the positive introduction of slavery either south or north of that line. Sir, while you reproach, and justly too, our British ancestors for the introduction of this institution upon the continent of North America, I am, for one, unwilling that the posterity of the present inhabitants of California and of New Mexico, shall reproach us for doing just what we reproach Great Britain for doing to us. If the citizens of these Territories choose to establish slavery, and if they come here with constitutions establishing slavery, I am for admitting them with such provisions in their constitutions; but then it will be their own work, and not ours; and their posterity will have to reproach them, and not us, for forming constitutions allowing the institution of slavery to exist among them. These are my views, sir, and I choose to express them; and I care not how extensively, or universally they are known."

This was among the last debates in which Mr. Clay took a part. It was among the last great acts of his long and honorable life. It was the utterance of such sentiments as these that endeared him to the people. They are the views of a statesman who could forget sectional prejudices in a love for his whole country. Could he come back from his honored grave, and resume his former seat here, and utter the same sentiments, he would be denounced as an abolitionist. Strange that the Supreme Court could not permit one decade to pass after the deaths of Webster and Clay—those great defenders and expounders of the Constitution—before it destroyed the measure that gave peace and prosperity to the country.



Mr. Clay's compromise measures passed, and California became a State of the Union, despite the protest of ten southern Senators, four of whom (Messrs. HUNTER and MASON, of Virginia, DAVIS, of Mississippi, and YULEE, of Florida,) occupy seats on this floor to-day.

In their protest they state that the passage of the bill admitting California is injurious to the slave States, *"fatal to the peace and equality of the States they represented, and leading, if persisted in, to the dissolution of that confederacy in which the slaveholding States have never sought more than an equality, and in which they will not be content to remain with less."*

After the passage of the compromise measures of 1850, with the admission of California as a State into the Union, peace was again restored on the question of slavery, as every patriot supposed, forever.

In 1852 the two great parties, Whig and Democratic, met in their conventions and endorsed, in their several platforms, the compromises of 1850. The questions that formerly had divided these parties had now been settled by the adoption of the Democratic policy, and the Democratic party was in a large majority in both branches of the national legislature.

In 1854, Mr. DOUGLAS introduced the Nebraska bill, to which Mr. Dixon, of Kentucky, offered an amendment, the effect of which was to repeal the Missouri Compromise. This amendment was accepted by the Committee on Territories, and adopted by southern Senators who objected to the bill and report of Mr. DOUGLAS, as I have been informed, for not being sufficiently ultra in their provisions.

I do not know, sir, why the Senator from Illinois accepted this amendment, but I was inclined to believe at the time that he—representing a free State—saw the beneficial results that were to flow from it to the people of the North, and it was not for him to object when he found almost a united South endorsing a repeal of the Missouri Compromise, the effect of which repeal was to devote the whole territories of the Union to the control of free labor. But I will do him the credit to say that I always thought that he saw, at the time he accepted the amendment of Mr. Dixon, that there were to be no more slave States. The South achieved another victory,

as she supposed; the bill became a law. From the moment of its passage slavery and freedom confronted each other in the territories.

In the passage of this bill the people of the North felt that a great wrong had been committed against their rights. This was a mistaken view; the North should have rejoiced, and applauded the Senator from Illinois for accepting Mr. Dixon's amendment. The South should have mourned the removal of that barrier, the removal of which will let in upon her feeble and decaying institutions millions of free laborers.

In the passage of the Kansas-Nebraska bill, the rampart that protected slavery in the southern territories was broken down. Northern opinions, Northern ideas, and Northern institutions were invited to the contest for the possession of these territories.

How foolish for the South to hope to contend with success in such an encounter. Slavery is old, decrepid, and consumptive. Freedom is young, strong, and vigorous. One is naturally stationary and loves ease. The other is migratory and enterprising. There are six millions of people interested in the extension of slavery. There are twenty millions of free-men to contend for these territories, out of which to carve for themselves homes where labor is honorable. Up to the time of the passage of the Kansas-Nebraska act, a large majority of the people of the North did not question the right of the South to control the destinies of the territories south of the Missouri line. The people of the North should have welcomed the passage of the Kansas-Nebraska act. I am astonished that Republicans should call for a restoration of the Missouri Compromise. With the terrible odds that are against her, the South should not have repealed it, if she desired to retain her rights in the territories.

Has it never occurred to southern gentlemen that millions of laboring free men are born yearly, who demand subsistence and will have it; that as the marts of labor become crowded they will spread into the territories and take possession of them. The Senator from South Carolina undervalues the strength and intelligence of these men when he denounces them as slaves. Would a dissolution of the Union give these



southern territories to slavery? No, sir. It is a mistake to suppose that it would. A dissolution of the Union would not lessen the amount of immigration, or the number of free white men seeking for homes and a market for their labor. Wherever there is land for settlement, they will rush in and occupy it, and the compulsory labor of slaves will have to give way before the intelligent labor of freemen. Had the Missouri line been retained, the northern laborer would not have sought to go south of it. But this line having been abolished by the South, no complaint can be made if the North avails herself of the concession. Senators had better consider before they talk of dissolution, and first understand if the perpetuity of their beloved institution will be more securely guarantied by it. The question of dissolution is not discussed by the people of California. I am not at liberty to say, if the people I in part represent are denied by Congress the legislation they require, they will consider it a blessing to remain a part of this confederation. The Senator from South Carolina very boastingly told us, a few days since, how much cotton the South exported, and that "cotton was king." He did not tell us that the price of cotton fluctuated, and that the South was at the mercy of the manufacturers. Suppose, sir, the sixteen free States of the Union should see fit to enact a high protective tariff, for the purpose of giving employment to free labor, would cotton be king then? Why, sir, the single free State of California exports the product for which cotton is raised, to an amount of more than one half in value of the whole exports of the cotton of the slave States. Cotton king! No, sir. Gold is king. I represent a State, sir, where labor is honorable; where the judge has left his bench, the lawyer and doctor their offices, and the clergyman his pulpit, for the purpose of delving in the earth; where no station is so high, and no position so great, that its occupant is not proud to boast that he has labored with his hands. There is no State in the Union, no place on earth, where labor is so honored and so well rewarded; no time and no place since the Almighty doomed the sons of Adam to toil, where the curse, if it be a curse, rests so lightly as now on the people of California.

Many Senators have complained of the Senator from South

Carolina for his denunciations of the laborers of the North as "white slaves," and the "mud-sills of society." I quote from his speech :

"In all social systems there must be a class to do the menial duties, to perform the drudgery of life. That is a class requiring but a low order of intellect and but little skill. Its requisites are vigor, docility, fidelity. Such a class you must have, or you would not have that other class which leads progress, civilization, and refinement. It constitutes the very mud-sill of society and of political government; and you might as well attempt to build a house in the air as to build either the one or the other except on this mud-sill. Fortunately for the South, she found a race adapted to that purpose to her hand—a race inferior to her own, but eminently qualified in temper, in vigor, in docility, in capacity, to stand the climate, to answer all her purposes. We use them for our purpose, and call them slaves. We found them slaves by the 'common consent of mankind,' which, according to Cicero, '*lex naturæ est*,' the highest proof of what is Nature's law. We are old-fashioned at the South yet; it is a word discarded now by 'ears polite;' I will not characterize that class at the North with that term; but you have it; it is there; it is everywhere; it is eternal.

\* \* \* \* \*

"We do not think that whites should be slaves either by law or necessity. Our slaves are black, of another and inferior race. The *status* in which we have placed them is an elevation. They are elevated from the condition in which God first created them, by being made our slaves. None of that race on the whole face of the globe can be compared with the slaves of the South. They are happy, content, unaspiring, and utterly incapable, from intellectual weakness, ever to give us any trouble by their aspirations. Yours are white, of your own race; you are brothers of one blood. They are your equals in natural endowment of intellect, and they feel galled by their degradation. Our slaves do not vote. We give them no political power. Yours do vote, and being the majority, they are the depositaries of all your political power. If they knew the tremendous secret, that the ballot-box is stronger than 'an army with banners,' and could combine, where would you be? Your society would be reconstructed, your government overthrown, your property divided, not as they have mistakenly attempted to initiate such proceedings by meeting in parks, with arms in their hands, but by the quiet process of the ballot box. You have been making war upon us to our very hearthstones. How would you like for us to send lecturers and agitators North, to teach these people this, to aid in combining, and to lead them?"

I, sir, am glad that the Senator has spoken thus. It may have the effect of arousing in the working men that spirit which has been lying dormant for centuries. It may also have the effect of arousing the two hundred thousand men with pure white skins in South Carolina, who are now degraded and despised by thirty thousand aristocratic slaveholders. It may teach them to demand what is the power—



"Link'd with success, assumed and kept with skill,  
That moulds another's weakness to its will;  
Wields with their hands, but, still to them unknown,  
Makes even their mightiest deeds appear his own!"

I suppose, sir, the Senator from South Carolina did not intend to be personal in his remarks, to any of his peers upon this floor. If I had thought so, I would have noticed them at the time. I am, sir, with one exception, the youngest in years of the Senators upon this floor. It is not long since I served an apprenticeship of five years at one of the most laborious mechanical trades pursued by man—a trade that from its nature devotes its follower to thought, but debars him from conversation. I would not have alluded to this, if it were not for the remarks of the Senator from South Carolina; and the thousands who know that I am the son of an artizan and have been a mechanic, would feel disappointed in me if I did not reply to him. I am not proud of this. I am sorry 'tis true. I would that I could have enjoyed the pleasures of life in my boyhood's days, but they were denied to me. I say this with pain. I have not the admiration for the men of the class from whence I sprung that might be expected; they submit too tamely to oppression, and are too prone to neglect their rights and duties as citizens. But, sir, the class of society to whose toil I was born, under our form of government, will control the destinies of this nation. If I were inclined to forget my connection with them, or to deny that I sprung from them, this chamber would not be the place in which I could do either. While I hold a seat here, I have but to look at the beautiful capitals adorning the pilasters that support this roof, to be reminded of my father's talent, and to see his handiwork.

I left the scenes of my youth and manhood for the "far west," because I was tired of the struggles and the jealousies of men of my class, who could not understand why one of their fellows should seek to elevate his condition above the common level. I made my new abode among strangers where labor is honored. I had left without regret; there remained no tie of blood to bind me to any being in existence. If I fell in the struggle for reputation and fortune there was no relative on earth to mourn my fall. The people of California

elevated me to the highest office within their gift. My election was not the result of an accident. For years I had to struggle, often seeing the goal of ambition within my reach; it was again and again taken from me by the aid of men of my own class. I had not only them to contend with, but almost the entire partisan press of my State was subsidized by government money and patronage to oppose my election. I sincerely hope, sir, the time will come when such speeches as that from the Senator from South Carolina, will be considered a lesson to the laborers of the nation.

This Lecompton constitution will pass this body. If it should pass the other House, it will become a law. The South will rejoice at another triumph. Such triumphs constitute her defeat.

Since this Lecompton constitution has been before the Senate, the Administration has seen proper to attempt to make its acceptance a party test, and its organs have sought to read out of the party all the Democrats who have had the boldness to denounce the frauds by which it was created.

Among the men thus sought to be ostracized, are the great captains and generals of the party, who so gallantly fought during the last Presidential contest, and without whose exertions this very Administration would have no existence.

Let the Administration take heed that the party does not read it out. I deny the right of the Administration to make a party test; it is a power that exists only in the Democratic masses. The dictation of self-appointed party leaders shall not be the test of my Democracy.

I cannot, as the Representative of a free people, consent by any act of mine to coerce the people of Kansas to accept a government they abhor. I have no fear that the people of Kansas will permit this constitution to be enforced in the event of its becoming a law. If they do permit it to be enforced, they deserve to be subjected to the most abject slavery, and should be made to work under the lash of those who framed for them this constitution.

Mr. President, in the views I previously expressed on the Executive message, I said that the President of the United States should be held responsible for the difficulties in Kansas.



This remark was considered startling at the time, and was the subject of much censure. Recent developments have confirmed me in the correctness of the position I then took, and from the expression of public opinion that has reached me, I am satisfied that a majority of the people of the country unite with me in holding him to this responsibility.

Much has been said about not submitting the constitution of Kansas to the people, and a comparison has been drawn between it and the constitution of Minnesota. I agree with the friends of Lecompton that it is not an objection that should be fatal to the admission of a State into the Union, that such constitution has not been submitted to the people, if it be ascertained that the people, as in the case of Minnesota, favor admission.

Entertaining these views, I would not oppose the admission of a State with a clause in its constitution tolerating slavery, if I were satisfied that it was the expressed wish of a majority of the people.

It is a conceded fact, not requiring discussion or argument, that four-fifths of the people of Kansas are opposed to the Lecompton constitution. It was a fraud from its very inception. Every election in that Territory, looking to this constitution as a result, was founded in fraud. Senators who have preceded me have stated at length the history of these frauds, and I will now only refer to some of them, as the facts have not been disputed. In one precinct of that Territory (Kickapoo) 1,029 votes were polled on the alleged adoption of the Lecompton constitution, while the board of commissioners appointed by the Legislature of Kansas to investigate the subject, state that there are not more than four hundred legal voters in that district.

At another precinct (Shawnee) there were returned, as having been polled for the Lecompton constitution, 753 votes. The census of this place shows thirty houses and 115 legal voters. When the poll list left this town the record of names covered four pages of paper, when it reached Mr. Calhoun it covered fifteen pages. At still another precinct (Oxford) 1,266 votes are reported as having been polled. The census shows 47 white inhabitants.

It is notorious that the people of a neighboring State were permitted to vote at this election, at such precincts, and as often as they desired. The names of people are recorded in the poll lists, as having voted, who had been dead for months. But why enumerate these disgusting details? The facts are before the people. They are known to the President. He continues to keep the men in office who are charged with the commission of these frauds. The result of all their enormity is before us, in the shape of this Lecompton constitution, endorsed by him. Will not the world believe he instigated the commission of these frauds, as he gives strength to those who committed them? This portion of my subject is painful for me to refer to. I wish, sir, for the honor of my country, the story of these frauds could be blotted from existence. I hope, in mercy, sir, to the boasted intelligence of this age, the historian, when writing a history of these times, will ascribe this attempt of the Executive to force this constitution upon an unwilling people, to the fading intellect, the petulant passion, and trembling dotage of an old man on the verge of the grave.



## Campaign Document No. 8.

# S P E E C H

BY

# HARVEY S. BROWN, of San Francisco.

## CALIFORNIA AND THE DEMOCRACY.

MR. PRESIDENT AND FELLOW-CITIZENS: A few weeks since, before the Republican Central Club of this city and county, I, among other things, sought to establish the fact that the Democratic party of the day was not that great and glorious party of the past,—but had become sectional, aristocratical, and no longer the party of the people. For centuries past throughout the earth a continual contest has been going on between the few and the many. At some periods and localities it has been a war between the crown and the people;—in others, as now in England, a contest between the titled nobility and the masses. Our own country is not at all singular in this respect. At the inception of our government the country was divided into two great parties: one, the Republican, under the leadership of Thomas Jefferson, insisted that the aim of all governments should be to secure “the greatest good to the greatest number;” the other, under that brilliant leader, Alexander Hamilton, too much overlooking the wants of the *governed*, and dazzled by the pomp and splendor of a strong government, strenuously insisted for the rights of the *governors*. It would be a work of supererogation to say more than that this was the same old contest, and that the people triumphed.

From that day until within the last decade the masses have been steadily advancing, when suddenly and unexpectedly they find themselves baffled and disappointed—their wishes thwarted by that party which claims to be the lineal descendant of the old Republican party. Upon examining the legislation of that party, they find that it has departed from its course, has thrown away the good old Jeffersonian and Jacksonian charts, and now, instead of seeking how best to promote the welfare of the white man, is wholly occupied in perpetuating the enslavement of black men and the debasement of white labor.

Their leaders also proclaim, in their speeches and writings, new and startling doctrines, to wit: that the free white men of the North, who earn their bread by the sweat of their brows—who toil with their hands from “early morn to dewy eve”—are “mudsills,” “white slaves.” Remember this, ye toiling millions! wherever your

birth-place—whether in the sunny South or frigid North! Be ye laborers born in Erin or Italy, in France or Germany, or in whatever other spot on the face of the globe, remember that this is the doctrine of some of the High Priests in the temple of modern Democracy. Are you willing longer to perpetuate the power of those *who call you names*—“white slaves”??

Look at the acts of the present Administration during the past four years, and what has it done but howl nigger, nigger, eternal nigger? Do a free people adopt a Constitution and ask admission into the Union as a sovereign State, they are excluded because they have no niggers. Do we ask a railroad from the Atlantic to the Pacific, we cannot obtain it because it would be unhealthy for niggers. Do we ask a daily overland mail, it is refused because it in no way advances niggers. Do we ask that a gift of one hundred and sixty acres of public land be made to every citizen, or foreigner who has declared his intention to become such, who desires a homestead, it is indignantly and peremptorily refused because it is wanted for the use of niggers,—because these measures do not please the 350,000 slaveholders who constitute the aristocratic Democracy—Democratic Senates and Democratic Administrations oppose them.

Why should a Californian vote for a Democratic nominee for the Presidency? What is he or the State to gain by so doing? Are you in favor of the railroad? Do you want a daily overland mail? Do you want a homestead as a gift, or do you prefer to buy it? I address you, laboring men! You, heads of families! You, Germans, Irishmen, Frenchmen, Italians! I address you all—white men of every clime! Are you aware that a homestead bill has thrice passed the House of Representatives and been as many times killed by a Democratic Senate? Are you aware that your Democratic President, James Buchanan, during the last session of Congress, vetoed the Homestead Bill and took from you, and you, sir—all of you—every voter in California—a home of 160 acres of land?

Go listen to Democratic orators—go read their papers and documents; you hear about niggers, read about niggers, until the eye and ear are

weary, but not one word of free homes. The very words nauseate a Breckinridge man, and words in favor of it in the mouth of a Douglas man would blister the tongue, if there is any truth in the old saying, that "lies make a sore tongue." *What! Democrats ask for poor men's votes when they take from them homesteads, and call them white slaves!* Democracy, as you see, my friends, has been a costly institution to California. Now what think you would be the cash gain to California should Republican measures be carried out? Pass the Homestead Bill, and 23,500,000 acres of land could be immediately divided among the citizens of this State, free of cost. This would make 146,875 homesteads of 160 acres each. Under the present law, to preempt it would cost one dollar and a quarter per acre, which would amount to \$29,375,000. This one measure would give to the people of California this enormous amount. Pass the Railroad Bill, and it would be necessary to expend at least \$20,000,000 here in this State. The value of the assessable real estate and the improvements thereon in this State, as assessed, is over, but we will call it \$80,000,000. The construction of this road would enhance the aggregate value of this property at least fifty per cent. This would make a gain to the State of \$40,000,000 more. The 146,875 homesteads would increase in value more than 100 per cent.; but call it fifty per cent. This would make \$14,685,500 more. There is no loss, but all is profit. Now let us see the net profits:—

Cr. By 146,875 Homesteads, .....	\$29,375,000
" cash spent in Cal. in construct-	
ing railroad, .....	20,000,000
" 50 per ct. increase on value of	
real estate now assessed, ...	40,000,000
" 50 per ct. addition to value of	
146,875 homesteads, .....	14,685,500

Aggregate cash profits to California, \$104,062,500

*Making the aggregate gain to the State of California, in dollars and cents, by the carrying out of Republican principles, the enormous sum of one hundred and four millions, sixty-two thousand and five hundred dollars—a sum exceeding the estimated cost of building the entire road! And yet this is not a tithe of the blessings that would roll in upon us. Think of those 146,000 happy homes—the hearts made glad—the widows shelter—the orphans support. What say you, fellow-citizens—"niggers for the niggerless," or "homes for the homeless"? Besides, pass this Republican measure, and it would furnish employment to tens of thousands of laborers—not "white slaves," but freemen—voters—sovereigns—equals of those lordly, democratic nabobs. Ponder, voters! laborers, tarry a moment—sailors and boatmen, furl the sails and lay aside the oars—farmers, leave the plow in the furrow—mechanics, drop the hammer, the saw, and the plane—miners, put aside the cradle, the pick, pan and shovel—merchants, lay up the ledger and the cash book for one day only, and let us here in California, in November next, teach these lordlings a lesson. Your fathers and mine, in the days of 1776,*

*did more than this. Through seven long years they toiled to teach England's King and Parliament that they were not slaves, but freemen. Let's rebuke these haughty leaders! Let's redeem our young and beautiful State from the hands of those who vote with and for those who despise free white labor! Or are you contented to see labor made ignoble, dishonorable? Are you willing to follow where you should lead?—to be governed where you should rule? Or are you ashamed of your birth place—of your old homes—of your honorable vocation; and will ye meekly and humbly submit, and elevate those who think you slaves?*

Again: pass that Republican Railroad measure, and our State, like a giant, would rise and shake off that torpor that under Democratic domination has settled down upon her; a new impetus would be given to trade and manufactures; the busy hum of industry would everywhere be heard; commerce revived would spread her great white wings to the breeze, and San Francisco become the great commercial emporium of the western world;—the tide of emigration would like a mighty column pour over our Sierras, debouch upon our plains, spread out from rivers' sides to oceans' barrier, southward to Gila's waters, and northward as near to "fifty-four forty" as the boundary of this our empire extends. Millions upon millions of capital would here seek investment. Atlantic mails would daily arrive—troops and munitions of war could be transported farther in days than now in months—herds and flocks would feed where now only roam the grizzly and the wolf—vineyards would supplant the chapparel and mustard—wastes become gardens—temples devoted to the arts and sciences would rise where now stands the Digger's hovel—the scream of the locomotive would pierce the ear of the roaming savage, break the solitude of the desert, wake the eagle in his eyrie, speed through fields of waving grain, daintily walk through cities and villages, bringing in his long and sometimes crescent train fathers, mothers, brothers, sisters, wives and children, to make glad and cheerful the hearts and homes of the lonely pioneer. Neither Greece or Italy, Spain at her meridian, France in the zenith of her splendor, or England at the height of her prosperity, ever was or can be what this our California then will become. True, they had palaces in the foreground; but were there not hovels in the background?—But every dwelling here will be the home of a sovereign.

I have before asked what Democracy has done for California. I will now show that it has done other wrongs to the State. Democracy is not only responsible for the defeat of a daily overland mail, the defeat of the railroad bill and homestead bill, but it has ruined the hopes and blighted the prospects of thousands upon thousands of our citizens.

Upon the acquisition of California, the Mexicans who held property here under the provisions of the treaty of Guadalupe Hidalgo, were to be protected in the enjoyment and possession of the same as fully and completely as though there



had been no change of sovereignty. Under the Mexican system, land was granted by the league to citizens of that Republic. The population being sparse, and no market for the products of the soil, as well from inclination as necessity the people were in the main devoted to the rearing of flocks and herds, the hides and tallow of which furnished the only articles of export. Land, like everything else, was cheap in every section, a league being worth little if anything more than a quarter section now.

The archives of the former Government were in the possession of the American authorities, in which was to be found the evidence or some evidence at least of nearly every valid grant that had been made in California. Agents, learned in the law, were appointed to proceed to California, examine the archives, and report to the Government the quantity of land and to whom granted. These gentlemen, with great diligence and fidelity, performed the delicate duty assigned them, and made full and able reports, and though the great body of the then grants were clearly genuine and legal, and a few others were regarded as doubtful, yet what think you our good Democrats did? You naturally enquire, did they not discriminate between the two classes of grants, confirm by act of Congress those which were known to be just and proper, and litigate the others? No, instead of trying to purchase the grants of the claimants so as to make all the lands in the State public and open them up to settlement, instead of confirming by act of Congress all those grants that were known to be bona fide and genuine, and settling titles so that the seller could give and the purchaser receive an indisputable title, and allowing the claimants under grants which were from any cause considered invalid to litigate them only, they passed a law creating a Board of Land Commissioners, and, *under the penalty of forfeiture*, made it obligatory upon all who claimed under Mexican grants to present and prove their claims before this Board, and gave the United States the right of appeal to the U. S. District Court, and from thence to the Supreme Court of the United States, after which, if the same should be confirmed, final survey might be made and patent issued. The ingenuity of man never devised a more mischievous and effectual plan to ruin both Californians and Americans, than this law. Had a thunderbolt fallen among the old Californians it could not have more astonished and amazed them; ignorant of our laws and language, they were compelled at once to employ counsel to prevent the confiscation of their estates; this, though interesting to the legal fraternity, was far from palatable to the Californians, for the process usually reduced their ranchos, sometimes a few hundred acres, other times a quarter or a third, and often a half, by way of a fee; traveling expenses from distant parts of the State to San Francisco and back, the expense of conveying witnesses and keeping them whilst waiting the law's delay, soon materially reduced their herds of cattle and menadas of horses, and finally, came confirmation or rejection, and *which*, mattered not, as they were compelled again to

employ counsel in the U. S. District Court, *for the United States appealed every case confirmed by the Board*. This, of course, involved new expense and trouble, and required either money or more land. After passing the ordeal of that Court, they were often compelled the third time to employ counsel to see their cases safely through the Supreme Court. If finally confirmed there, and he had money enough left to pay the U. S. Surveyor General for making the survey, (this was necessary during some years, because a Democratic Congress failed to make the necessary appropriations,) he or his children after him might hope to have a glimpse of a patent written upon parchment with the great seal attached, which would doubtless excite some curiosity and wonder, but, practically, could be of little other use, for the lands therein so particularly described had long since passed into the hands of the speculator. How many, oh, how many of these gray-haired Californians who had lived independently all their days, are now homeless, landless, houseless—strangers in the land of their nativity—their fortunes spent, not in procuring for themselves and families the comforts and luxuries of life, but wasted in litigation caused by the Democratic party—that party which these old Californians have been taught to respect and vote for. Whilst this policy has proved so utterly disastrous to the California portion of the community, it has not been less baneful to the American portion. Americans coming here saw large tracts of land unfenced, and, apparently, unoccupied, and, hoping that the lands were public, made haste to make their locations. Californians seeing intruders on their lands, warned them off, but they having located, and knowing the action of our Democratic Congress, and thinking that all or nearly all of the grants were or might be invalid, would neither move or buy. But the claim of ownership, in most cases, deterred them from making valuable improvements, for not a fruit or ornamental tree would they plant in the ground, not a fence or a house could they erect but what the thought would unbidden come, "I may lose my improvements and labor," and, in hundreds of instances, their houses were but huts and their fences but apologies. Thousands have spent years of time in constant dread and doubt, not daring to buy, fearing to improve, and spending their earnings in protracted and costly litigation. Bitterness of feeling was sometimes engendered between the contending parties, wrongs were committed, sometimes crimes and bloodshed, and innocent wives and children have sometimes suffered by incarceration of their natural protectors in prison for deeds of violence committed in the settlement of land titles, whilst others, unpunished by the law, have a *dead man* on their souls, destroying their peace and making life a hell. Where the claims are rejected, the settler may then obtain his quarter section at Government price, but even then, counting the time and money spent, the vexations of litigation, and the postponing of his improvements, it will be in many cases dear. But if the claim is finally confirmed, as ninety-nine out of every hundred have been which had an expediente of

the same in the archives, then he must either buy or leave; but to buy now he must pay five, ten, twenty, fifty, and sometimes a hundred times as much as he would have been compelled to pay had the title been settled when he first went upon it. This difference in cost is a part, though small portion, of the benefits of Democratic rule. But these are not a tithe of the evils of this policy. A few (and I am happy to say they are few) of the old Californians, seeing that all claims were subjected to the same trials and delay, felt that to retaliate on the Government would not be amiss, so uniting themselves with a few unprincipled adventurers, they undertook to palm off fraudulent grants upon the Board; these grants, though not very numerous, made up in the quantity of land claimed what they lacked in numbers. The effect of these frauds was to throw a cloud over nearly all the richest agricultural lands in the State, which, as a matter of course, retarded the natural growth of the whole State. Some of these frauds being detected, induced the belief in the minds of some, yes, thousands who were uninformed on the subject, that all or nearly all the grants in the State were bad; hence, naturally, settlers made little if any discrimination in making locations. Other fraudulent grants being confirmed, caused others to think that they might as well purchase one as another, and they were induced to pay large sums of money for titles worse than worthless. The title to a few millions of acres has been settled, but the cloud of uncertainty, like a pall, hangs over millions upon millions of acres of the best land in the State, the terror of both claimants and settlers, and a nuisance to the people and State, the end of which will probably come about the time that the heavens are to be rolled together like a scroll. But this is not all: the Democracy have again hoisted the flood-gates of litigation, which bids fair to very nearly if not quite to equal that which has preceded. Instead of allowing the U. S. Surveyor General to go upon the ground and there determine conflicts as to boundaries, and there fix the lines, and then allow the contestants to settle their disputes in a cheap, easy and speedy way, in the county where the land lies, in the courts of the State, the last Congress passed a law requiring the surveys to be returned into the U. S. District Court, where a trial *de novo* as to boundaries may be had which may take years longer to determine, and, when finally ended, is not after all a finality, but may be again contested in the State courts.

I charge then upon the Democratic party that they have disturbed the peace and retarded the growth of this country, have fostered litigation, distracted land titles, have caused frauds and perjuries, bloodshed and violence, have caused American citizens to buy and pay for worthless titles, and others to settle upon and contest *bona fide* titles, made them lose the labor of years and pay out their money in fruitless litigation, and finally, have plundered and confiscated the estates of old Californians, made them expend their all in contesting the law-suits that they have thrust upon them, made many of them houseless and homeless, reduced them to want and poverty,

that they have wounded hearts, broken up families, and violated the solemn obligations of treaties. I charge the present administration, through Attorney General BLACK, with the publication of untruths concerning California and land grants, in order to make political capital, and account for the disbursement of \$100,000 which he *didn't* spend in California. These, my friends, are some of the wrongs that California has suffered at the hands of the Democracy. Are not these truths, old Californians? Do you not feel them away down in your inmost souls? Americans, do you not *know* they are so? have you not felt, suffered, and paid enough on account of Democracy? If so, remember the ballot-box and the remedy!

Our opponents have so much to say of slavery and taking negroes into the Territories, that it is scarcely possible to avoid alluding to the subject. All agree that Congress has no power over slavery in the States. The Breckinridge party insist that the owners of slaves have the right to take them into any of the Territories, and that neither Congress or the people of the Territory can prohibit it. The Douglas party claim that the will of the people of the several Territories is supreme unless the Courts decide otherwise, in which event that every department of the Government should protect the rights so determined.

The Bell party have staked off a claim upon the Constitution, and as the lead is rather blind and not well defined, and, from a little prospecting, seems inclined on the North of Mason and Dixon's line to run one way, and South of it to run another; they insist on the priority of location and possession, and aver the right to follow it and hold it, with all its dips, angles and spurs, though it lead heavenward or the reverse.

The Republican party insist that the normal condition of the Territories is that of freedom; that slavery is local, not national; and that Congress has full power, and that it is a duty which that body owes to free white men to prohibit slavery therein so long as it remains a Territory. The three first named parties most cordially unite in abusing the Republicans, and charge that it is a sectional party, being confined to the free States. One word on this point. We may be extremely unfortunate, but, nevertheless, we have been led to believe that under our Constitution there are a *few* other rights besides that of owning niggers. In the days of our childhood we were taught, and the reading of manhood has confirmed those teachings, that under that instrument the citizens of the several States have the right to go wherever they please in this Union, that they may engage in any kind of lawful business, may freely express their sentiments upon any and all subjects, may edit and publish newspapers, religious or political, may receive newspapers through the public mails, may buy, sell, and read books not immoral, work and vote for whatever candidate they please, and shall be secure in their persons and property. I regret that these rights, in some of the Southern States of this Union, exist in the imagination only. In Carolina, an Irishman who expressed an opinion



derogatory of the institution of slavery, was whipped and tarred and feathered. In Virginia a few Republicans raised a Lincoln and Hamlin pole and hoisted the flag of their party, and the aristocratic democracy looking upon these laboring Republicans as white slaves, with force and violence cut it down. In Maryland a few similar poles are raised, and the aristocracy are greatly exercised, and threaten to give them a Virginia dose. In Texas, Germans who favor the rights of white men and talk of the wrongs of black men, are expelled the State. Throughout the entire South the mails are liable to examination, and if N. Y. *Tribunes* are found, they are burned. Scarcely anywhere in the South can a man express and avow Republican doctrines with safety to life and limb. The Legislature of Texas during the last winter passed a law of which the following is an extract :

"ARR. 653. A. Any free person who shall publicly maintain that masters have no right of property in their slaves, either by speaking, writing, or printing, shall be punished by confinement in the Penitentiary not less than two nor more than four years.

"ARR. 653. B. Any free person who shall privately or otherwise than publicly maintain that masters have no right of property in their slaves, with purpose to bring the institution of slavery into disrepute in the mind of any free inhabitant of this State, or of any resident for the time being therein, shall be punished by confinement in the Penitentiary not less than two nor more than five years."

What a commentary on free institutions and a free government is this! Imprisoned in the penitentiary not less than two years, and for what? Once things were not thus.

Thomas Jefferson, the author of the Declaration of Independence, in the original draft of that instrument, wrote :

"He [George III.] has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people, who never offended him, captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel Powers, is the warfare of the Christian King of Great Britain. Determined to keep a market where men should be bought and sold, he has at length prostituted his negative for suppressing any legislative attempt to prohibit and restrain this execrable commerce."

Washington, the father of his country, said "his vote never would be wanting for the passage of a law to abolish slavery." He writes to John F. Mercer :

"I never mean, unless some particular circumstances should compel me to it, to possess another slave by purchase, it being among my *first wishes* to see some plan adopted by which slavery in this country may be abolished by law."

John Randolph says :

"I give to my slaves their freedom, to which my conscience tells me they are justly entitled. It has a long time been a matter of the deepest regret to me, that the circumstances under which I inherited them, and the obstacles thrown in the way by the laws of the land, have prevented my emancipating them in my lifetime, which it is my full intention to do in case I can accomplish it."

Patrick Henry, the first great orator of the revolution, whose burning words thrilled like an electric shock through the hearts of the American people, said :

"I believe a time will come when an opportunity will be offered to abolish this lamentable evil. Everything we can do is to improve it, if it happens in our day ; if not, let us transmit to our descendants, together with our slaves, a pity for their unhappy lot, and an abhorrence for slavery. If we cannot reduce this wished-for reformation to practice, let us treat the unhappy victims with lenity. It is the furthest advance we can make toward justice. It is a debt we owe to the purity of our religion, to show that it is at variance with that law which warrants slavery!"

Again. Mr. Jefferson declared, in 1774 :

"The abolition of domestic slavery is the greatest object of desire in these colonies, where it was unhappily introduced in their infant state."

And at a later period of his life, as the result of more mature experience, he says :

"Nothing is more certainly written in the book of fate, than that these people [the negroes] are to be free ; nor is it less certain that the two races, equally free, cannot live in the same government. Nature, habit, opinion, have drawn indelible lines of distinction between them. It is still in our power to direct the process of *emancipation and deportation*, and in such slow degrees as that the evil will wear off insensibly, and their place be, *pari passu*, filled up by free white laborers. If, on the contrary, it is left to force itself on human nature must shudder at the prospect held up."

These revolutionary heroes—this founder of Democracy—the idol of the people of these States down to the last decade—this old-fashioned Republican, Thomas Jefferson, were he and Washington and Henry and Randolph on a visit to Texas in the year A. D. 1860, and heard to utter these old sentiments, they would be consigned to a prison and confined with malefactors and felons. God pity the people—God save the country. Such language, yea, much less than this, now these aristocrats say is incendiary and exciting to the slaves. How is this? It did not in former times excite them, and why should it now? Is it not their constant boast that the slaves are contented and happy ; much more so, indeed, than the free laborers of the North? How then can *they* get excited? No ; 'tis not an insurrection among the slaves that they fear, but one among the voters—the poor—the laboring white men in their midst—an insurrection at the ballot-box, which might overturn and destroy this lordly aristocracy which has planted its iron heel, if possible, more firmly on the poor white man's neck than that of the ebony slave. Let the laboring white men of the South understand that it is not abolition or slave insurrection that the Republicans want, but the elevation of our own race, and there is not a Southern State that would not soon become intensely Republican. Who is to blame that there are few Republicans in the South? Certainly not Republicans, but rather the violence of the aristocratic Democracy.

The great body of the people are honest, though often deceived by the wiles of the demagogue; but their impulses are right, and the "second sober thought" rarely fails to rectify error. That thought is now upon, among, and moving the people of this great nation, and when November comes it will take form and voice—will sweep through New England, cross

the Alleghenies, speed along the great lakes, sweep down the Ohio, bound over the father of rivers, skim over the plains of Kansas, pass by the Mormon prophets, mount the Sierra Nevada, come thundering down California's and Oregon's cañons, and proclaim to a listening world that we are yet free.

## REPUBLICAN STATE CENTRAL COMMITTEE.

Office, 163 Clay Street, San Francisco.

B. W. HATHAWAY,	WM. RABE,	F. B. FOLGER,
GILBERT A. GRANT,	HENRY BAKER,	JOHN SATTERLEE
JOHN T. McLEAN,	JACOB SHEW,	AUSTIN SPERRY.

B. W. HATHAWAY, Chairman.

F. B. FOLGER, Treasurer.

WILLIAM RABE, Secretary.

 The Committee request full returns of Clubs to be sent to their office.



## Campaign Document No. 11.

# POLITICAL PROSPECTS IN CALIFORNIA.

The entire vote of this State in 1856 was 110,221. We do not anticipate that it will be materially increased this year. Owing to the distracted state of the Democratic party, it is probable that many will not vote at all, and hence it is reasonable to conclude that the vote of the State will not exceed in round numbers 110,000. We believe that any candidate who shall get 38,000 out of this 110,000 votes will carry the State. After deducting some 10,000 votes from the sum total, which the foolish old gentlemen intend to throw away on Bell and Everett, there will be 100,000 votes to divide up among Lincoln, Breckinridge and Douglas; 33,333 would be an equal division. If Lincoln can carry 38,000, we believe the remainder will be so equally balanced between Douglas and Breckinridge that the State will be safe enough for honest Abraham. That Breckinridge will lead Douglas largely we do not question, but after deducting the 38,000 votes for Lincoln, and 10,000 for Bell, it will leave but 62,000 for the other two. Supposing that Breckinridge gets 36,000 of these, it leaves but 21,000 for Douglas, which will be full as many as he can get.

But Lincoln's vote will not be limited to 38,000. In 1856 Fremont got 20,691 votes. This vote will unquestionably be doubled for Lincoln this year. In this city it may not be thought it will be largely increased. The vote for Buchanan in San Francisco in 1856 was 5,332; for Fremont, 5,089; being a plurality of 243 for Buchanan. Lincoln will this year have at least 3,000 majority. There are at least 1,500 of the old friends of Broderick who will vote for Lincoln, who never before voted the Republican ticket. This alone would make a change of 3,000 in the result. But there are a great many others who were not Broderick men that have never yet been Republicans, who will vote for Lincoln, so that we are clearly within bounds when we put Lincoln's plurality in this city at 3,000.

In Sacramento the change will be still greater

in proportion to the vote. There Fremont got but 941 votes. This year Lincoln's vote will doubtless exceed two thousand. In fact we are assured that in every county where any effort has been made to ascertain what the Republican vote will probably be, (excepting only San Francisco,) the Republican vote will be doubled. In fact we do not see, if there is any reliance to be placed on statements that come to us well authenticated, how that Lincoln's vote throughout the State can fall short of double that which Fremont received. This would give him 41,382, and that is the least vote that Lincoln will receive. In many of the smaller counties his vote will be ten times that received by Fremont in 1856, and in fact there is no earthly power that can prevent his carrying the State.

But, to make assurance doubly sure, we have prepared the following table of votes thrown in 1856 for Buchanan, Fillmore and Fremont. Opposite the name and vote of each county we have left a blank space to be filled in by the residents of different counties of the estimated votes that will be cast this year. Now if our friends in the different counties will take the pains to inform themselves by means of the various club rolls, and all other available means, what will be the probable vote this year, and send the table filled out with their estimated results to the State Central Committee, they will be able in the course of two or three weeks to tell just about how the State will go; and also, if they find that any district or State will not do so well as anticipated, to send in the documents and speakers to arouse them and bring out the full Republican strength.

We beg to assure our friends in the interior that it is of very great importance that they attend to the filling out of those tables. Ascertain your strength in your own counties, and let us know how many votes you will throw for Lincoln and Hamlin. Send your estimated returns to the State Central Committee, and then the way is easy and the work open before us.

PRESIDENTIAL VOTE IN 1856.				PRESIDENTIAL VOTE IN 1860.				
COUNTIES.	Buchanan	Fillmore	Fremont	Lincoln	Douglas	Breck'ge	Bell.	Linc'ln gain
Alameda.....	729	213	723					
Amador.....	1784	1557	657					
Butte.....	2501	1702	744					
Calaveras.....	2615	1504	562					
Colusi.....	289	305	18					
Contra Costa.....	487	288	188					
El Dorado.....	4048	2956	1391					
Frezno.....	218	123	1					
Humboldt.....	204	191	103					
Klamath.....	832	440	82					
Los Angeles.....	721	135	521					
Marin.....	350	82	151					
Mariposa.....	1254	772	165					
Merced.....	249	124	14					
Monterey.....	267	169	220					
Napa.....	444	341	157					
Nevada.....	3500	2238	1462					
Placer.....	2808	2096	992					
Plumas.....	1124	865	217					
Sacramento.....	3438	3386	941					
San Bernardino.....	314	7	93					
San Diego.....	173	38	18					
San Francisco.....	5332	1598	5089					
San Mateo.....	282	113	238					
San Joaquin.....	1285	1040	548					
San Luis Obispo.....	83	15	107					
Santa Barbara.....	176	10	183					
Santa Clara.....	576	673	809					
Santa Cruz.....	320	288	196					
Shasta.....	1537	1083	169					
Sierra.....	2506	2205	693					
Siskiyou.....	2073	1791	464					
Solano.....	799	634	189					
Sonoma & Mendocino..	1515	498	382					
Stanislaus.....	436	228	21					
Sutter.....	491	347	92					
Tehama.....	436	311	44					
Trinity.....	1011	882	188					
Tulare.....	248	139	23					
Tuolumne.....	2936	2112	1056					
Yolo.....	553	583	130					
Yuba.....	2451	2081	650					

Buchanan.....	53,365
Fillmore.....	36,165
Fremont.....	20,691
Total.....	110,221



5.  
S P E E C H

OF

*Delivered*  
M R . B R Y A N ,

OF

OF YUBA COUNTY,

ON

THE SENATORIAL QUESTION.

IN THE

SENATE OF THE STATE OF CALIFORNIA,

ON

FRIDAY, MARCH 10, 1854.

—♦♦♦—  
SACRAMENTO:

PRINTED AT THE DEMOCRATIC STATE JOURNAL OFFICE, CORNER OF K AND SECOND STS.

1854.





# THIRD READING OF THE BILL POSTPONING THE SENATORIAL ELECTION, INTRODUCED JANUARY 17th, 1854.

MR. PRESIDENT:—I had hoped before rising upon this question, that some reasons would be given by the minority of the Democratic party upon this floor, why the bill now before us should pass, and the Senatorial election should be deferred until next winter. But sir, gentlemen refuse to discuss this question, and I am forced to take their published positions, and those in which I understood them to occupy, as fields for argument to-day. Sir, a newspaper clamor has been raised, and is still persisted in by certain influences in this State by which the majority of the Democratic party in this Legislature have

been abused as men, who by their action are trampling upon the more sacred principles of the Constitution, and defrauding the people of their rights. That such charges are still made, is my apology for entering into a discussion at this time of the Constitutional bearings of a question, which seems to be treated here by Senators upon each side, as one that will scarcely admit of debate.

The apportionment of Senators in Congress from each State, was by the framers of the Constitution of the United States, expressly arranged upon its present footing in order to protect the smaller States of the Union against the large, and guard the separate independence of each against the mere force of the superior numbers of other States. Thus Connecticut, Delaware, New Jersey, and the other smaller States, were jealous of the large populations of Virginia, Massachusetts, and Pennsylvania, upon the close of the revolutionary wars, and having been independent provinces of the British crown, would not, in the Union to be created risk, in the least their independence as States. The plan of giving each State, whether small or large, an equal

voice in the Senate of the United States, was opposed in convention by Mr. Madison and his colleagues from Virginia, and by Dr. Franklin and his colleagues from Pennsylvania, but the smaller States remaining firm, and refusing to unite in the form of the General Government, except they were placed upon an equal footing in one branch of the National Legislature, with all of the other States, the point was finally yielded to them. The effect of this compromise was the adoption by the Constitutional Convention of the following clause, Sec. 4 of Article 1st:

“The TIMES, PLACES and MANNER of holding elections for Senators and Representatives SHALL BE PRESCRIBED IN EACH STATE BY THE LEGISLATURE THEREOF; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators”

As an attribute of sovereignty, belonging to each State, and expressly necessary in guarding the smaller States against the encroachments and usurpations of the larger, the *times, places and manner* of electing Senators was left to the States; for it would be well to say that each State had a right to the same number of Senators as the rest of the States, and yet all Congress in the first instance to regulate the time and manner of the election of her Senators. This would, in effect, defeat the object of the Constitution, and endanger the independence of every State, by submitting an important right to the votes of a Congress in which the larger States had a great preponderance in one branch of the National Legislature. The sovereign right of each State, to fix its own TIME and MANNER for the election of Senators to Congress, has never as yet, and probably never will be interfered with by Congress except as a means of

preserving the classification of Senators, where the State by law violates that classification.

As to the sovereign right of each State in fixing the TIME and MANNER of electing Senators to Congress, the doctrine is well laid down in the contested election case of Potter vs. Robbins, decided in the United States Senate in 1834. The real matters in issue in that case, were, whether the Legislature of "Rhode Island," which elected Mr. Robbins, had a legal existence or not; but the majority of the Committee in their report upon that case, announced the general doctrine as to the extent of the State's sovereignty in this matter. Mr. Poindexter, Mr. Rives, Mr. Frelinghuysen, Mr. Wright and Mr. Sprague were appointed a Committee to investigate the matter as to whether Mr. Potter, elected by the last Legislature, or Mr. Robbins, elected by the first, should obtain the seat for which they contended in the Senate. Messrs. Poindexter, Frelinghuysen and Sprague, in their majority report, use the following language:

"The Senators from each State are equal in number, and cannot be increased or diminished EVEN BY AN amendment of the Constitution, without the consent of the States respectively. They are chosen by the States as *political sovereigns*, and without regard to their representative population, and from the Federal branch of the National Legislature. The same body of men which possesses the powers of legislation in each State, is alone competent to appoint Senators to Congress for the term prescribed in the Constitution. In the performance of this duty, the State acts in its *highest sovereign capacity*; and the causes which would render the election of a Senator void, must be such as would destroy the validity of all laws enacted by the body by which the Senator was chosen."

This, sir, is good Whig authority, and was fully endorsed by Clay, Mangum, Bell, Frelinghuysen, Ewing and other distinguished Whigs of the United States Senate. But, sir, another feature of this case is this; that Silas Wright made the minority report, a voluminous document, and one of the ablest arguments on record, and yet he does not pretend to deny the positions of the majority of the Committee, which I have just read. More than that. Although Mr. Potter made as one of his objections to Mr. Robbins taking his seat, that the Senators in the "Rhode Island" Legislature held over their term, and the people had not elected Senators with a view to filling a vacancy in the United States Senate, yet Mr. Wright, whilst asserting Potter's right to his seat, DOES NOT EVEN NOTICE THE OBJECTION.

Sir, is it not strange that the great constitutional expounders in both of the political parties of the day, whilst occupied in a long and tedious contested election, and commenting upon this VERY CLAUSE of the Constitution, should not have discovered, to use the language of some editors in this State, "that the spirit of the Constitution was trampled upon, and the rights

of the people outraged?" That great discovery, sir, has been reserved for our own times—for California politicians, and the profound wisdom of statesmen in our midst. With the advance of the age, wisdom has grown so much with us, that we actually know more about that instrument than our humble forefathers who formed it; and those shallow politicians who have been for more than sixty years in Congress explaining it. How could a man obtain a seat in the United States Senate when the LETTER OR SPIRIT of the Constitution of the United States had been violated in his election? Robbins obtained his seat, notwithstanding he was elected by the votes of Senators who HELD OVER THEIR TERMS, and by those that the people did not elect for that purpose. Then would it not follow as a fair inference that WE CAN ELECT, being a body properly elected, and with full powers, fresh from the people?

An unconstitutional election certainly cannot make a constitutional Senator, and if we elect, and our Senator is able to get his seat in the Senate of the United States, is that not of itself a satisfactory explanation of the constitution?

But, Sir, I am told that many Senators have changed their ground upon the constitution, and they now rely upon this position: that under Sec. 3 of Art. 1st of the constitution, the Senators are to be divided into three classes, each going out every two years, and that, in the language of that instrument, "so that one-third may be chosen every second year." Now it has been said that the first Congress having met in 1789, an ODD YEAR, that each class ever thereafter must be selected in an ODD YEAR to comply with the constitution. There is sufficient, apparent, at a glance, in the constitution itself to defeat this construction. If this were correct, the State would not regulate the TIME, but the constitution of the U. S. itself; and it would destroy entirely the force of that section, that gives the State the power to regulate the time for an election.

But, Sir, to show more conclusively that this could not be the case, there are now FIFTEEN STATES in the Union that elect Senators to Congress in an EVEN year. If the position then be correct, almost one ENTIRE HALF of the members of the U. S. Senate are improperly holding their places. It would be strange if in the great excitement attending the election of Senators from different States, at this time, no man has been cunning enough to invent such a construction. Georgia, Mississippi, Ohio, Kentucky, and

other States, have been electing this very winter, to fill vacancies occurring when ours does, in 1855. But gentlemen say that they have *biennial sessions* of the Legislature! granted. The tedious contested election, and commenting upon this VERY CLAUSE of the Constitution, should not they elect their Senators upon a year with an even number, cannot, in my opinion, much strengthen their constitutional position that it should be an *odd* year. But, Sir, I have con-



sumed too much time in treating this question of an election this session, as one that gentlemen seriously thought to be, in any manner, revolting to the letter or spirit of the constitution of the United States. No man who understands his position, upon the other side of the House, pretends to think so. As a sovereign State, the constitution permits us, in our own sovereign manner, to consult our own interests in the premises.

Now, Sir, permit me to approach another matter, which has been a rich topic for wretched bombast, fustian logic, and ridiculous declamation. It is urged that the precedent history of other States upon this subject, has left the election of Senators to fill vacancies to the Legislature last from the people before the vacancy occurs. This, in the older States, has been generally the case, and why? Because as a general thing, the person elected knew all about his State and its interests at the time of his election, and there was no good reason why the election should come off earlier. There are several States in the Union that are not as large as Mariposa county, in this State. A man could ride all over them in a day or two; and then they are immediately contiguous to the Federal Capitol. Do we not require more time than they? Five thousand miles distant from Washington—with a territory large enough for four or five large States—a sea-coast of fifteen hundred miles—a country where you can travel from amidst tropical fruits, to regions of eternal snow-clad hills—a country with every variety of climate, every species of production, and all the varied pursuits of industry and enterprise in our midst, which are seldom found in the bosom of even great nations. Will any man be bold enough to say that we do not require more time for our Senator to become acquainted with the wants of the counties, than he who travels from Maryland, or New Jersey?

It is sir, the true policy of California that she should elect sooner than other States—yes, many months sooner. Do we not run great risks by putting off those elections so late as the winter preceding the vacancy? One Legislature of this State balloted half the winter for a U. S. Senator, and then failed to elect. Another, more fortunate, elected Mr. Weller; and did he not run against time to reach the steamer, having barely time to put his certificate in his pocket? Suppose the steamer is cast away; will the U. S. Senate wait until your Senator re-ships? No, sir; he may study navigation, if he pleases, upon the sea, but the Senate will not wait for him.—He may talk politics near the line, but his vote will not be heard.

I repeat, Mr. President, that our true policy as a State is to elect earlier than other States. But, sir, what have we to do with other States? In the exercise of her sovereignty, a State of this Union is as absolute as the Czar of Russia. Are sovereign powers led by the precedents of

other powers? Do the precedents of Russia have much effect upon the Ottoman Porte? Are Austrian precedents, at this time, pleasant reminiscences to the Swiss Cantons? But let us come nearer home. Do any of the States of the Union follow any one thing done in other States, unless it suits their interests? They have different laws in different States, why not all alike? They have laws near Nantucket that fix the season for taking clams, why do they not affect the oyster catcher of Key West and the Florida Reefs?—But sir, the precedents of other States having no BINDING FORCE upon a State, in any man's mind, are they safe guides as rules of action? They nearly all differ among themselves as to the time fixed by law for the election of Senators. Some elect in the winter, and some in the spring, and some in the summer. What are we to do? We meet once a year, upon the first Monday in January, by the Constitution, and that is too late for this country. We must then elect at the session preceding, in order to guard against risks of all kinds. I have always been taught that it was the part of wisdom in a Legislature to guard against all losses to the commonwealth, by leaving as little as possible to future accident. But, sir, before I get through with this matter of *precedent*! I wish to quote some ideas of a very old man—a man of great energy—a profound scholar and thinker—a man of great observation as to the springs of human action—and a man (whatever the storms he has passed through) of firm and unshaken faith in the Democratic party. I allude to Thomas Hart Benton. Sir, this man, grown grey in the service of his country, in the debate upon the case of Potter vs. Robbins, used the following language: "He (Benton) had little regard for precedents; no man in fact despised them more than himself. He considered that they were the bane of this country, as they had been of England." But, sir, I will not take up more of the time of the Senate in discussing a question which appears so idle. The "*Times and Transcript*" has styled precedent in this matter, "the political common law of the States."

This is a *handsome phrase*, but does not apply. Common law, or custom, binds in the absence of express laws. But here the State acts by virtue of a complete sovereignty over the subject matter. It is the power that creates the Law, and its act in filling a vacancy is the express law itself.

But sir, having spoken longer than I intended, upon matters to my mind so plain, permit me now to turn for a few moments to the last folly, upon which much valuable breath has been expended.

It is that the people should vote for members of the Legislature with a direct reference to filling any vacancy which may occur in the Senate. It is true that the people should always be consulted by their Representatives upon every important matter of legislation—and such has

been the case as to this question, so far as it would ever be practicable at any time. Our Legislative government is based upon this supposition, and we are each of us acting as agents for our constituents to the best of our judgments and ability.

But sir, how can we improve upon it, by putting this election off to a time unsuited to us as a State, and which we would be compelled to alter hereafter.

I represent, sir, nearly six thousand voting constituents, differing among themselves as to individual preferences for the vacancy, occurring.

Suppose they attempt to elect next Fall, members of the Legislature, "with direct reference to this question," how will they go about it?

Will there not be as many factions in a party, as there are men that are candidates for the vacancy who may have friends in the county?

Is this not always the case, when we have nothing but NAMES and MEN to bind parties together? If the County Convention went off without a storm, where is the end of the bickering and heart burning during the election? I have lately seen a man, sir, nearly destroyed by deserters from his own party, where the prize was much less than that of U. S. Senator.—Would any person elected amid such confusion, be able to represent ALL of the various preferences in his county for different candidates for the vacancy?

Would he not have to do in the end, as the majority have done in this instance—ascertain as far as he can the will of his constituents, and then consult with his party as to the best course to take? Suppose his county to be unanimous as to one man for the vacancy (not a supposable case) and he comes here and votes for his choice, and he finds that his candidate has no chance to be elected, where does he then go? Would he have to wait to hear from his constituents again? No, he would have to exercise his own best judgement in the matter, which is precisely what constituents send men here for. Sir, I have never heard of a political campaign of this sort, but I can well imagine how it would terminate. It would, sir, in this State, distract and divide the Democratic party.

California is democratic to-day, by eleven thousand votes; and Sir, I do not hesitate in saying that a Whig has no business in representing this State in the Senate of the United States. That post belongs to the Democracy, by virtue of the victories they have achieved, and their motto of "PRINCIPLES, not men," which has heretofore kept them together, and linked their name with much of the glory of our country's history.

Who will deny that it of right belongs to us? Then, Sir, if it belongs to us, why not secure it? Are the objections cast in the way, any more than chaff thrown up to hide other motives behind? A majority of the Democratic party have met in "caucus," and decided upon this election, and now ask of Democrats in this Legislature their support. The Constitution sanctions it, and both State policy, and party policy DEMAND IT. But, Sir, I have heard that gentlemen have scruples about a "caucus," and call the disposal of this question LEGISLATION. Why, Sir, from the earliest times of the Republic, great and important MEASURES have been decided upon in "caucus."

The war of 1812 was decided in "caucus." And Sir, by the last steamer from the Atlantic, we have news of a "caucus" of stupendous importance. A "caucus" upon Douglass's Nebraska Bill, in the United States Senate. A "caucus" of Whigs and Democrats, at which both of your California Senators attended—a "caucus," the object of which was to devise means to get a Bill through for the organization of the Nebraska territory, and to assert also to the Union that the Compromise measures of 1850, abrogated and annulled the provisions of the Missouri Compromise of 1820. A "caucus," the effect of which will be to revive the agitation of the slavery question, and destroy the effect of those great and patriotic measures, defended by the noblest men in the Union, both north and south. A "caucus" in which northern dough-faces, led on by a western political charlatan, go farther than the south desires, and raise a fanatic excitement throughout the Union, in order that the vote of the south may be had in a certain way for the next Presidency. Here is a measure of vast importance to every lover of the Union, and here is a "caucus" upon it. Sir, Mr. Gwin, certainly, if he were here, could not oppose a "caucus" for the filling of the place of one Senator from this State, after being in such a "caucus" as that. No Sir, there is no objection to our "caucus." It is a principle of every party to caucus—they could not unite without it.

Now Sir, is it not better for the Democratic party, as a mere measure of policy for itself, to bring on this election and be done with it? Do we not risk what is more than men, the ascendancy of our principles, in this State, and in the Union, by throwing this firebrand into the next election? Did ever a party, when it knew it was right, hesitate about such a thing before? I hope Sir, to see the minority of Democrats, come back to us, and not longer remain with our political enemies, a union with whom can only breed ruin to the great Democratic party that has nursed them—put down our principles for a time, and assist in checking the spread of that Republican element, which is the principle glory of the age in which we live.









61  
UNION AND SECESSION.

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S P E E C H

OF

HON. THOMPSON CAMPBELL,

OF SAN FRANCISCO,

DELIVERED AT SACRAMENTO,

JULY 30th, 1863.

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REPORTED IN PHONOGRAPHIC SHORT HAND, FOR THE SACRAMENTO UNION, BY A. J. MARSH. J.

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SACRAMENTO:

1863.



# SPEECH.

On Thursday evening, July 30, 1863, a large Union meeting was held in the Assembly chamber at the Capitol.

ROBERT ROBINSON called the meeting to order, and C. H. Swift, President of the City Trustees, was chosen to preside.

Judge SWIFT introduced as the speaker of the evening, THOMPSON CAMPBELL of San Francisco, who was received with applause.

Mr. CAMPBELL said—Mr. President, Ladies and Gentlemen: It is rather later than I had expected to begin my speech, and I fear that you will be somewhat disappointed in the manner of it, for my speech will be rather argumentative than entertaining; yet I shall ask you to hear me for the cause that we all have so much at heart, and I will get through as quickly as possible. I am now and have been for several days very much indisposed, and therefore I shall ask your indulgence, not through affectation, but because I believe I shall stand in need of it.

When this most stupendous and wicked rebellion shall have been subdued and its authors consigned to the infamy that awaits them, and when peace, gentle peace, shall have once more spread her wings over our beloved country and the events of the present shall be passed into history, what part will the historian assign in this great drama to the Golden State of the Pacific? The loyal people of California should never for a single moment allow themselves to forget that they are now making their own history, and that it devolves upon them so to act that the page upon which it is written shall never cause the blush of shame to mantle the cheek of their posterity. The geographical position of California has excluded her from that fullshare of glory in the present great struggle that her loyal people would otherwise have nobly achieved; but notwithstanding her great distance from the scenes of conflict, many of her noble sons have covered their names with imperishable honor, and are now sleeping the sleep that knows no waking on the very spot where they fell, as freemen should only fall, under the flag of their country and with their faces to her enemies. [Applause.] If the loyal heart of California did not falter and grow weak when the skies were darkened with clouds and when the storm raged in its greatest fury, and even the approving smile of Heaven seemed for the time to have been withdrawn from her own great cause, with what unflinching confidence must it now be animated when victory after victory, triumph after triumph, succeed each other in almost bewildering rapidity, coming as the cheering beams of the morning after a dark and stormy night, gladdening, reassuring and strengthening every loyal heart. [Applause.]

## THE RISE OF THE REBELLION.

When, fellow citizens, we look back from the present standpoint of the nation to that day when rebellion first lighted its torch, the day that will forever stand accursed in the calendar of time; and when we consider event after event by which the National intellect has been led on step by step until it has reached that sublime pinnacle where it now reposes before ascending to still loftier heights, breaking shackle after shackle that bound it to the car of slavery [applause], the finger of an overruling Providence appointing, directing and guiding our country forward in the fulfillment of the great destiny which lies before her, must be clearly visible even to the most skeptical and unbelieving. The history of this rebellion will prove not

only the great forbearance of the North, but her almost criminal reluctance to recognize the terrible fact that war, civil war had unfurled its bloody banner and was even threatening the Nation's Capital. When the cotton States, through their Legislatures and Conventions, did actually withdraw, so fixed was the Northern mind upon the *indivisible* character of this Union, that it refused to accept the evidence which such alarming acts were calculated to present. But the part of this bloody drama which posterity will be least able to comprehend, is to be found in the proceedings of Congress when the rebel members withdrew from the National Legislature. In the Senate they proceeded in the most defiant, insolent and treasonable manner. They would send the proceedings of their State Legislature declaring that they were no longer members of this Union to the Secretary's desk to be read, which was done without objection! They would then proceed to deliver a valedictory address, announcing the dissolution of the Union and their determination to trample under their feet the flag of their country. The spell that bound the public mind was not even broken by the formation of a hostile Government with its Capital at Montgomery, and its having seized upon the forts and arsenals of the United States, and torn down the flag and trampled it in the dust. The North all this time was unmoved. She spoke no word, she uttered no cry of alarm. But when the first gun of treason was fired at that glorious flag, twenty millions of freemen sprang to their feet, and, in a voice which struck terror to the whole rebel host and startled the dull ears of despots on their thrones, they uttered the inspiring cry, "To the rescue!" [Cheers.] The spell of that protracted dream was ended. [Applause.]

## THE RISE OF COPPERHEADISM.

But such, fellow citizens, had been the political influence which the South exercised in the North, that they calculated with almost absolute certainty upon the co-operation of a great party, with which in times past they had been united with what they supposed were indissoluble bonds. And when they saw these ties of years, in the twinkling of an eye, before they could cry "Behold!" broken, severed, scattered to the four winds of heaven, the whole rebel crew were seized with wonder and amazement, and for the first time the powers of slavery stood abashed, and felt how awful liberty is. [Applause.] And had it not been for the accused and damnable fires of partisan ambition and wickedness that were rekindled by the emissaries of treason, the last rebel gun would have long since been fired, and the last rebel curse would have long since been uttered against the Government of Washington. [Applause.] It is, then, to this party, calling itself the Democratic party, and to the base, hypocritical and perfidious means to which they have resorted for the purpose of re-establishing themselves in power, though it be upon the ruins of the Union itself, that I now propose first to call your attention.

## THE CONSTITUTION.

After the first whirlwind of patriotism, which swept everything before it, had somewhat subsided, and after reverses that, instead of opening should have closed up the Union ranks, had come upon the Federal armies, this party began to operate in favor of the enemy, and to concoct means by which it could, with safety to itself, give them aid and comfort in their hellish undertaking. It was suddenly discovered by this party that all the means adopted by the Administration for the purpose of meeting and crushing this rebellion were unconstitutional—were not only not authorized by the Constitution, but were in direct violation of that sacred instru-



ment—and that (which perhaps was the most remarkable feature in the case) the more effective a measure of the Administration was, and the more destructive upon the authors of the rebellion it was, the more clearly in the sight of this patriotic party was its unconstitutionality. [Applause.] This party has taken refuge behind certain peace provisions of the Constitution, and it seeks to defend itself and all its acts under what it terms the rights and privileges conferred upon citizens by the Constitution of their country. Now, fellow citizens, you will bear with me while, perhaps at some length, I examine this question of constitutionality. I first lay down this proposition—that the Constitution of the United States is not only a peace Constitution, but it is also a war Constitution. [Applause.] When the peace provisions of the Constitution cannot be executed, then the war provisions of the Constitution step in and enforce their execution. [Applause.] It was an old Roman maxim—“*inter arma silent leges*.” But I will be able, to show, before I conclude my remarks on this point, that the provisions under which this party that is now attacking the Government covertly seek to defend and to protect themselves are the peace provisions of the Constitution, which are intended for a state of peace, but when the country is in a state of war they must give way to the war provisions of the Constitution, otherwise the Constitution and the Government would have no means to defend itself—and that is the argument and that is the point which they seek to establish. [Applause.]

#### PEACE PROVISIONS.

Now I think I will be able to show that, instead of the Government of the United States being a weak Government, having no constitutional means or inherent power within itself to preserve and perpetuate itself, it is one of the strongest Governments that the world has ever seen, that the Constitution is vital in every part, that it is incapable of annihilation, that it contains untold powers of self-defense which only require circumstances, emergencies and exigencies like the present great rebellion to call them into full, perfect and armed action. [Applause.] I have stated that there are provisions in the Constitution that are peace provisions; now I propose, fellow citizens, to direct your attention to those provisions. I then propose to direct your attention to the war provisions of the Constitution; and next I shall call your attention not only to the oath which the President of the United States is required to take, but to the duties which the Constitution devolve upon him to discharge. From these we will be able to justify every measure which the President of the United States has adopted to preserve, protect and defend that sacred instrument. [Applause.] I said I would first direct your attention to those provisions of the Constitution under which that party and those persons who are now making a war upon the Administration seek to defend themselves. The Constitution says:

“The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

“No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.”

“In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.”

“The privilege of the writ of habeas corpus shall not

be suspended unless when, in cases of rebellion or invasion, the public safety may require it.”

Those are what are called the “peace provisions of the Constitution.” I now ask your attention to what may be called the “negative powers,” that is, declaring what the States shall not do:

“No State shall enter into any treaty of alliance or confederation, grant letters of marque and reprisal, coin money, emit bills of credit,” etc

“No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless when actually invaded, or in such imminent danger as will not admit of delay.”

#### WAR POWERS.

Then come the powers that are conferred upon Congress, and these I refer to as the war powers of the Constitution:

\* \* \* \* \*  
“Section 8. The Congress shall have power \* \* \* to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water; to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years; to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions; to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress; \* \* \* and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.”

In pursuance of the provisions of the Constitution, Congress, as early as the year 1795, passed a law containing the following provision:

“Whenever the laws of the United States shall be opposed, or the execution thereof obstructed in any State by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the Marshal in this Act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, as may be necessary to suppress such combination, and to cause the laws to be duly executed.”

And on the 3d of March, 1807, a law was passed by Congress which provides:

“In all cases of insurrection or obstruction to the laws either of the United States or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ for the same purpose such part of the land and naval force of the United States as shall be judged necessary, having first observed all the prerequisites of the law on that subject.”

These are the war powers and these are the Acts of Congress that were in force when this rebellion first began. These are the Acts of Congress under which the President acted, and the provisions of the Constitution which I have read to you are the provisions which authorized Congress to enact those laws which you have also heard read. Then the Constitution devolves these obligations upon the President: First, his oath of office—

“I do solemnly swear that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect and defend the Constitution of the United States.”

Next, the Constitution says: “The President shall be Commander-in-Chief of the army and navy of the United States, and of the militia of the several States when called into the service of the United States.”

Again—“He shall take care that the laws be faithfully executed.”

Now, in the first place, those things which the Constitution denies to a State, every one of them has been done by the rebellious States. The laws in those States

could not be executed. They were in rebellion against the laws. The Constitution provides for a case precisely of the character that I have represented. It contains war powers of the most plenary character. It calls into force the whole military and physical power of the nation for the purpose of executing the laws when the process of law is obstructed, and in order to make it more full and complete it authorizes the President of the United States, as the Commander-in-Chief of the Army and of the Navy, to use this military power to the extent of suppressing either a rebellion or an insurrection. I undertake to say that there is no Government in Europe, with or without a Constitution, that exists now, or ever did exist, that has or had more ample, more plenary, more complete war powers than this Constitution confers upon the President of the United States. [Applause.] This is the defense of the Government. It was said at the beginning of this rebellion, and before it, that although the Government of the United States was powerful, that although it could resist all outside pressure, yet it had no power to overcome an internal convulsion. He who sat in the Presidential chair while the conspiracy against republican government was being entered into, admitted in his message to Congress that if the Southern States did see fit to secede there was no power in the Constitution to prevent it. Now this is the precise doctrine which you hear preached every day by this Copperhead party. This is the doctrine—the Buchanan doctrine—which they seek now to impress upon the public mind of the loyal people of these United States—that every act which the Administration may adopt for the purpose of defending and perpetuating free government is in violation of the Constitution. I say that is carrying out the Buchanan doctrine; it is carrying out the European view in regard to our Government. But we have seen that we have not only a Constitution for peace, but we have a Constitution for war, that has made our adversaries beware of us. [Applause.]

#### COPPERHEAD ARGUMENTS.

Now, fellow citizens, having stated this proposition, and having proved it, as I think, beyond all question, let us see what there is in their arguments. First—life, property and liberty are three things that are very dear to every American, and they cannot be interfered with unless by due process of law. Now, is this provision of the Constitution intended for a state of peace, or is it intended for a state of war?—or is it compatible with the other powers of the Constitution, which the Government is authorized to call in when the peace powers cannot be executed? If this proposition, if this provision of the Constitution should receive the interpretation which they seek to give it, there could be no such thing as war. When you are called upon to defend your country, your liberty is interfered with. You can be forced to take up arms; you can be forced into discipline. Your liberty as a loyal citizen, then, yields to this war power, on account of the necessity of the case, and on account of preserving to you the very right which, for the time being, you are compelled to surrender. Your property, for military purposes, is liable to be taken, without "process of law," without any judgment of a Court. And your life, if you forfeit it according to military law, may be taken without any process of law, and without any judgment of any Court. So you see that these peace provisions of the Constitution are intended for a time of peace, but are wholly and entirely inconsistent with the other provisions of the Constitution which provide for a time of war.

#### HABEAS CORPUS.

Again, it is said that the privilege of the writ of habeas corpus shall not be suspended unless in cases of rebellion, invasion or great public danger. Now, you have heard a great deal about this writ of habeas corpus. They grow eloquent on that subject. They tell about the Barons forcing it from King John at Runnymede. We have got a MEADE, too, but he is not a running Meade, except when he runs in pursuit of the flying enemy. [Applause and cheers.] I say we have heard about this *ad nauseam*. But what is the provision? Does not it prove the very proposition which I have stated? The writ of habeas corpus shall not be suspended unless in case of rebellion or invasion, or of great public danger. Therefore it is a writ for peace,

but in case of war the writ may be suspended. Now look at this proposition. What is the writ of habeas corpus for? In time of peace, when any citizen is imprisoned, he can apply to the proper Judge of a proper Court for a writ of habeas corpus, which is to inquire into the cause of his imprisonment. If his imprisonment is legal, then the writ does not discharge; if his imprisonment is illegal, then the writ will discharge. Now if the country is in a condition where the writ of habeas corpus may be suspended, it implies that arrests are made that are not legal, because if a writ of habeas corpus did issue upon a legal arrest it would not discharge the prisoner. Therefore it is clear and plain that this writ of habeas corpus, this sacred privilege, this English privilege, as we are told it is, was intended wholly and entirely for a time of peace, and its suspension was for the purpose of authorizing a commanding officer charged with the defense and safety of the country to arrest suspicious persons, without legal cause, merely upon suspicion, without any writ being issued and without being able to assign any legal cause; for, as I said before, if there was a legal cause, the writ would not discharge the prisoner. Therefore, it is plain that this provision of the Constitution intended that this great privilege of freemen, as it is a great privilege, should never be refused unless the safety and defense of the country required that it should be refused.

#### FREE SPEECH FOR TREASON.

But that which vexes their Copperhead souls to the greatest extent is that they are denied that freedom of speech which they say the Constitution guarantees to them. Now the Constitution says that freedom of speech and of the press shall not be abridged. Is this without limitation? Can any person, through mere wantonness and passion, stir up sedition, rebellion and treason against this Government, and the Government itself be powerless to protect itself against the consequences which might follow? Judge Story, the great commentator on the Constitution, has said that this provision of the Constitution hath this limitation—that he shall not disturb the public peace, or attempt to subvert his Government. And in speaking of the freedom of the press he applies the same language, and adds to it, in substance, that if perfect freedom of the press or licentiousness were allowed at all times, even in times of profound peace, it might become not only a great scourge to the nation, but be the very worst of all despotisms. Therefore, we find that when the Constitution speaks of free speech, it means free speech with these limitations. But this is in a time of profound peace; how is it in time of war? and what do they claim? Suppose that a city were besieged, and some person inside of the city should deem that he had a constitutional right to indulge in free speech, and should preach to the troops defending the city to disobey their officers, lay down their arms and surrender the city—would free speech of that character be tolerated? Then, if they would not be permitted in presence of the army to indulge in this freedom of speech, could they effect the same object at a distance by denouncing the war, resisting the conscription, inducing persons that were in the army to desert, crippling the power of the Government, and taking away its constitutional means to carry on the war and put down the rebellion? I ask, can you make any distinction between these two classes of cases?

Now where is this war carried on? They say that the loyal States are in a state of rebellion or a state of war. But this war spreads over the whole country. It permeates every part of this republic. It is in the loyal States that all the preparation to create, to support and to maintain our armies is carried on. If you wish to oppose the war successfully, oppose the means by which it is prosecuted, and the war must certainly very soon come to an end. Cut off the supplies—let Congress refuse to vote supplies for the army, and your brave men that are now defending the Constitution and the Government of your country would very soon be compelled to lay down their arms in the very face of the enemy. Therefore I say what they are contending for is treason in every sense of the word. [Applause.]

#### VALLANDIGHAM'S TREASON.

Now, fellow citizens, allow me to illustrate. You have all heard of one Vallandigham, as arch a traitor as any there is in Jeff. Davis' army. [Applause.] I



propose, before I go fully into his case, to read to you his record, made before he was arrested, tried by a Court martial, and banished. This Vallandigham made a proposition in Congress to divide this Union into four sections, and to provide for secession. In arranging his sections he divided the free States into three sections, and put all the slaveholding States, including Delaware, into one section, giving that section the controlling power in the Union. And still this party, of which he is a leader, is for "the Constitution as it is, and the Union as it was." [Applause and laughter.] In the year 1860, in a speech delivered at the Cooper Institute in New York, Vallandigham declared that if the South should secede he would never vote one dollar whereby one drop of American blood should be shed in a civil war. And he has redeemed that pledge to the very letter. When the enemy was within sight of the Capital he refused to vote one dollar for its defense; and persistently and consistently, from the first day of the rebellion to the present time, he has voted against every appropriation for the support of the army and to crush out this rebellion that was presented to the body of which he was a member. In another speech he declared that before the troops of Ohio should march through his district to coerce the South they should march over his dead body. And again, he made the first proposition that was made in Congress for foreign intervention. But to cap the climax, in another speech of his he defines his position in these words:

"The controversy in this hall has been of a character, and sentiments have been avowed which have caused the North and South to stand arrayed in hostility against each other, and disunion has been threatened. I occupy between these parties a position of armed neutrality. I am not a Northern man. I have no sympathy with the North, and very little good feeling with the North, and I am bound to it by no tie whatever. But I am bound to the South; I am identified with the South and her slave institution; and at this particular time, when she is in the midst of insurrection and murder, and when she is threatened with the torch of the incendiary and has the knife of the assassin suspended over her, I am with her heart and soul."

This man says he was born in Ohio, but he married into treason. [Great applause.] In the speech for which he was arrested and tried in Ohio by Court martial, he uttered the following atrocious and treasonable sentiments:

1. That the war was a cruel and unnecessary war on the part of the United States.
2. That peace might have been obtained by listening to the intervention of France.
3. That military *Marshals* were appointed to deprive the people of their liberties—meaning the execution of the Conscription Law.
4. He counseled the people to resist Burnside's Order No. 88, and that he spit upon and trampled under his feet General Burnside's order.

Besides many more declarations of the same import and character. Now for this he was arrested, and upon his arrest a Copperhead howl went up from one end of this nation to the other. And this is the man who declared these sentiments, and others more atrocious even than these, who, it is said, has been deprived of his constitutional right of free speech. Now what was his defense? He says that he was not in the army nor in the navy, and did not belong to the militia that were mustered into service in time of war or public danger, and therefore he could not be tried under military law. Before his arrest, and to suit the case of persons indulging in treasonable practices, the President of the United States, on the 24th day of September, 1862, made the following proclamation. After reciting that "disloyal persons are not adequately restrained by the ordinary process of law from hindering" the draft of the militia, "and from giving aid and comfort in various ways to the insurrection," it proceeds:

"Now, therefore, be it ordered, that during the existing insurrection, and as a necessary means for suppressing the same, all rebels and insurgents, their aiders and abettors within the United States, and all persons discouraging volunteer enlistments, resisting the militia draft, or guilty of any disloyal practice, affording aid and comfort to the rebels against the authority of the United States, shall be subject to martial

law, and liable to trial and punishment by Courts martial or military Commissioners."

That was a proclamation of the President. This proclamation was made under the powers which the Constitution conferred upon him and which I have read to you this evening, and under the Acts of Congress which I have also read. Now it is for you to decide, it is for every loyal man to decide, whether or not the acts and declarations of Vallandigham, and the speech for which he was arrested and tried, were calculated to give aid and comfort to the enemy. Now, what is treason? Treason is defined by the Constitution. It means the levying of war—the actual levying of war. But when war is once actually levied, then the minutest aid, at the greatest distance from the scene of conflict, is as much treason as those are guilty of who are standing with arms in their hands aimed at the very life of the Government of their country. [Applause.] Was Vallandigham aiding and comforting the enemy when he told his constituents to resist the conscription?—when he told them they were about to lose every right of freemen?—that Marshals were about to be appointed by the Government of the United States to take away their liberty?—when he said he "spit upon" and trampled the order of General Burnside under his feet? I ask you, was he guilty of aiding and comforting the enemy? Was there any other means that he could have adopted to that end that would have been so successful as the very course he saw fit to pursue?

#### MARTIAL LAW.

They say that the arrest of Vallandigham and the declaration of martial law are without precedent and without a parallel in this free republic. In the first place, on that point, I will submit to you a few propositions that are established by the laws of nations. The right to declare martial law denies the right of the judiciary to issue the writ of habeas corpus. That principle was decided by Judge Leavitt, of the United States Court, at Cincinnati, when Vallandigham was brought before him—or, rather, when they sought to obtain the writ of habeas corpus in his favor. He took the ground—that this Judge who was appointed by General Jackson—that when martial law was declared the obligation on the part of the judiciary to issue the writ of habeas corpus ceased and ended, and that if the commanding officer believes, or has good ground to believe, that the safety of the community, the defense or the good of the country, requires it, he is justified in disobeying the writ of habeas corpus. That doctrine was announced in General Jackson's case, when the question was before Congress, by Senator Berrien, of Georgia, a man who was admitted to be one of the ablest lawyers of the whole South. And again, what justifies the declaration of martial law over a community? The known existence of spies and traitors, or the disaffection of any considerable portion of the resident population, whether citizens, denizens or aliens, always justifies a declaration of martial law by the commanding officer. Suppose we should apply that rule to California. [Applause.] Have we any spies and traitors in California? Because if we have spies and traitors in California it would justify the commanding officer in declaring martial law here. [Applause.] Now I apprehend that the only reason why martial law is not declared in California is because there is no present necessity for so doing. But let the war of the rebellion approach the borders of California, and they would very soon find out whether we have any military power in this State, and any determination to maintain the Union and put down every conspiracy against it. [Cheers.]

#### GENERAL JACKSON'S CASE.

Now what is General Jackson's case? A man by the name of Louallier made a publication in the *Louisiana Gazette*, just before the battle of New Orleans and after General Jackson had declared martial law, in which he condemned the course of General Jackson, charging him with oppression and with tyranny, with unconstitutional oppression in making his order of the 25th of February, an order precisely similar in every respect to the order of General Burnside, which Vallandigham said he "spit upon" and trampled under his feet. General Jackson arrested Louallier, and after his arrest Judge Hall, of the United States Court, directed a writ of habeas corpus to issue in his behalf. Now, mark you, he merely directed the writ to issue; the



writ never did issue. General Jackson, for that, arrested and imprisoned him. Louallier was tried by Court martial and acquitted, and Judge Hall was sent beyond the lines, where neither he nor his writ could give the Commanding General further trouble. [Applause.] Now, I ask you, if President Lincoln has ever done an act equal to that? The writ never issued; but for the mere order directing it to issue, after Judge Hall knew that martial law had been proclaimed, General Jackson arrested and imprisoned him, and even though Louallier was acquitted by the Court martial, he sent the Judge beyond his lines. After the war was over, General Jackson, having successfully defended New Orleans, this same Judge had General Jackson arrested and brought before him and fined him one thousand dollars. This man who had arrested Louallier, and had arrested the Judge for issuing his writ of habeas corpus—when the danger was over, when the defense of the city and the safety of the country no longer required his attention, bowed to the majesty of the peace provisions of the Constitution. [Applause.] Thirty years after this event the Congress of the United States refunded to General Jackson the fine imposed upon him by Judge Hall, and not only refunded the fine, but they justified his act. [Applause.] Now, who did this? The first two States that memorialized Congress to perform this tardy act of justice to General Jackson were Virginia and South Carolina. Seventeen sovereign States memorialized Congress to justify General Jackson in the arrest of Judge Hall and the imprisonment of Louallier. Every Democrat North and South voted for the justification of General Jackson and to refund to him the fine which the Federal Judge had imposed upon him. This principle was then maintained by the Democratic party, but it was a very different Democratic party from that which styles itself the Democratic party of the present day. [Applause.] That was a party which had for its leader the man who proclaimed this immortal sentiment, which, if he had never uttered another word or done another act, should have rendered his name immortal: "The Union must and shall be preserved." [Cheers and applause.]—not that there was no power in the Constitution to preserve the Union, but power or no power "this Union must and shall be preserved." [Renewed cheers.]

DOUGLAS ON JACKSON.

Now, among the elements that were conglomerated by the fusion Convention of the 8th of July, there are those who were the followers, the admirers, and the firm political friends of Judge Douglas. To that particular wing of the present fusion I now wish to read what Judge Douglas said upon this question, which is being so much discussed at the present day. This is an extract from Judge Douglas's speech, made when the bill to refund General Jackson's fine was under consideration in the House of Representatives, in 1844:

"He cared not whether General Jackson violated the Constitution or not; he cared not whether General Jackson suspended all civil authority or not. If his acts were necessary to the defense of the country, that necessity was above all law. What were rules of Court but mere cobwebs, when they found an army with cannon at the doors of the Courts, and when they saw the flames encircling the capitol; talk to them about rules of Court, and the formality of proceedings? The man that would do this would fiddle while the Capitol was burning. To defend the country, let him not be told that it was unconstitutional to use the means. If martial law was necessary for the protection of the country, then martial law was legal for that purpose."

J. B. WELLER ON JACKSON.

Now I have another authority which I will read at the present time, although I did intend to postpone it till another part of my speech. I now propose to read you, fellow citizens, what one of the Copperhead Congressional candidates of the fusion party said on that occasion. John B. Weller, in commenting upon the same question, said in regard to General Jackson and in regard to his acts on that occasion: "To have sat down and coolly examined the Constitution to see whether that instrument authorized the act, when lives and property—yea, the honor of the people—were at stake, would be sporting with the highest interest committed to the care of man. To have hesitated when that instrument itself was placed in jeopardy, would have shown that he was unfit for the position in which

he was placed." He then says that "for this act of necessity, General Jackson had been denounced as a tyrant and a usurper, and one who tramples upon the Constitution of his country." And again he says that "Judge Hall issued his writ with a full knowledge that his power as a Judge was suspended by the declaration of martial law." Mark that point: that Judge Hall issued his writ with a full knowledge that his power as Judge was suspended by the declaration of martial law.

A PRESCRIPTION FOR J. B.

He then makes this declaration—that "not a man friendly to the American cause was opposed to the declaration of martial law." [Applause.] I commend this chalice to his lips. I bring it back to him, and I tell him that not a man friendly to this Union is opposed to all proper means necessary to sustain this Union. [Cheers.]

IS J. B. A KNOW NOTHING.

But he justifies the arrest of Judge Hall upon a ground which no Democrat at that day took except himself, and it will be highly gratifying to his Know Nothing and Native American friends of the present day, to know that at this early period he uttered the true sentiments of his heart. He exclaims:

"Who asserted that the Constitution had been violated? Who denounced General Jackson as a tyrant and a usurper? Was it an American citizen? Was it a man born on our soil? A man through whose veins circulated American blood? No, sir."

But, he says, it was an unnaturalized foreigner who did this, and therefore he should have been arrested, law or no law. These were his sentiments in 1844. Yes, these were his sentiments while the Native American party were committing churches to the flames in Philadelphia. If these were his sentiments then, his foreign admirers will, perhaps, be a little curious to know the precise time when he changed these opinions. I would suggest that they make this inquiry during this campaign. But as I intend to pay my respects to Mr. Weller in another part of my speech, I will make no further allusion to him at this time.

THE QUESTION SETTLED.

Now, fellow citizens, what was decided in General Jackson's case? First, that martial law could be declared within the limits of this free republic. Second, that General Jackson was justified in disobeying the writ of habeas corpus. Third, that General Jackson was justified in arresting and imprisoning Judge Hall for directing the writ to issue. And fourth, that a commanding officer is the sole judge of the necessity as to whether martial law shall be declared or not. The President, under his solemn obligations to the country, and in the exercise of a sound discretion, proclaimed martial law to the extent which you have heard read, and under that proclamation General Burnside issued his order for the arrest of Vallandigham. They say the arrest of Vallandigham is without precedent and without a parallel. I have shown to you what were the opinions of the people of the United States in the case of General Jackson thirty years after the events, and what were the sentiments of your Democratic party at that time. The act of justice to General Jackson was sustained by seventeen sovereign States, voted for by every Democrat North and South—not merely refunding the fine. General Jackson would have scorned the money—he cared nothing for it—it was to wipe out the stain which that fine had fixed upon his reputation; and the country did wipe it out, and wiped it out for the reasons expressed in the law, and for the reasons which, as we have seen, were assigned in the debate.

GENERAL JACKSON AND NEGRO TROOPS.

Senator Linn of Missouri introduced the bill, General Butler of Kentucky supported it, and in his speech I may refer, as it occurs to me, to one remark which he made, and which is a complete answer to all that is said upon the same question at the present day—that out of the 438 citizens or residents of Louisiana that were in the battle of New Orleans, 203 were free persons of color. General Jackson at that day was willing that negroes should defend the Constitution and the Government of the United States. [Applause.] The citizens of Louisiana were willing to fight side by side with them when their city was threatened to be attacked by a foreign soldiery. But now, when republican liberty is in its greatest peril, when rebellion is rampant in the nation, we are told that this war is to be fought

out, but that men of color shall not fight the battles of the nation. Who says so? Are they men who are themselves willing to fight? No; they are men who will not fight; who recognize no war except a war on the Administration, a war for office; and recognize no restoration except the restoration of themselves to power. [Applause.]

#### POCKET HABEAS CORPUS.

Then I say that the case of General Jackson, taken in all its bearings, and the judgment of the country rendered upon it thirty years afterwards, in the most violent times of party excitement, justifies the President of the United States in every act and in every arrest that he has made. Talk about the writ of habeas corpus; why, every man carries a writ of habeas corpus in his own pocket. [Applause.] There has not been a single man arrested but could have discharged himself by either renewing by oath his allegiance to the Government of the United States or taking the oath that he had not aided or given comfort to the rebellion, and would not do so. There is the writ of habeas corpus that would discharge him, and that has never been suspended. [Applause.] Who is it, then, that seeks this writ of habeas corpus—this loyal, peace writ of habeas corpus? Is that man entitled to it who refuses to swear allegiance to his Government, and who refuses to take the oath that he has not aided the enemy, and will not aid the enemy? Is that the class, I ask, for which, and on account of which, the Administration is to be condemned for its suspension of the writ of habeas corpus?

#### MORE PRECEDENTS—"WAIT!"

What has been the practice of the Government in regard to these arrests? Let us see. In 1823, in a time of profound peace, an officer—Colonel Purdy—arrested persons on suspicion of disaffection to the country. He was amerced in damages, and Congress refunded the fine. In 1812 another officer arrested six persons, on suspicion of treason to their country. In a civil action brought against him he was amerced in \$9,000 damages, and the Congress of the United States refunded the fine. Now what is the principle that underlies this whole question? In these two cases, where on trial it was shown that the arrest was illegal, perhaps unjust, without probable cause, what is the principle upon which Congress refunded the fines? Why, it is the principle that underlies this whole doctrine. The question is not whether the party arrested is guilty or not guilty, but the question is whether the liberty of a single individual is of more consequence than the preservation of this Union [applause], and whether an officer in the discharge of his duty shall wait until the act of treason is consummated, a city sacked, an army destroyed, before he can constitutionally arrest the traitor. That is the doctrine of the Copperhead party of this nation at this hour. You must wait! It was the doctrine of England in regard to the pirate Alabama, when she was called upon by the Government of the United States for an explanation. After she had been admonished that that vessel was fitting out for hostile purposes, the reply of Lord Russell was that England was a country of law. We had not, however, sufficient evidence upon which to arrest an English subject, or to interfere with an English subject, and therefore we permitted the Alabama to depart, and she is now preying piratically upon your commerce. They must wait till the act of treason is performed. Wait till the traitors in and about Washington or Baltimore, or the traitors in New York, or in California, shall have communicated to the army of the rebellious States the precise position of the Federal army, so that they may attack and destroy them. And if there is any law that authorizes the arrest of such a person it is unconstitutional and the officers must wait till the act of treason is consummated. This is the doctrine advocated by Vallandigham. It is the doctrine of Governor Seymour of New York. This is the doctrine that led to the destruction of millions of property and hundreds of lives by the rioters in New York city, who were acting under the very direction of the Chief Magistrate of their State, and according to his teachings. [Applause.]

#### NECESSITY.

We hear a great deal said about this law of necessity which they say is the plea of tyrants. Why, you would suppose that the doctrine of necessity was one never heard of before. The fact is, that according to these

men there is nothing to be done to defend this Government against traitors in arms that is not entirely new and in direct violation of the Constitution of the United States. Let us see in regard to this law of necessity. Why, even in civil matters the law of necessity is recognized. The Supreme Court sustained the charter of the Bank of the United States on the ground of necessity. Jefferson, as late as 1820, or perhaps later, wrote a letter to one Colvin in regard to General Wilkinson of New Orleans. During the Burr conspiracy Wilkinson had arrested three persons at New Orleans and sent them to Washington for trial. The Constitution of the United States provides that every person charged with crime shall be tried in the State where the crime may have been committed; yet, General Wilkinson sent them from New Orleans to Washington, and there they were turned over to the judiciary, tried and acquitted. This was afterward attacked as a violation of the Constitution. Jefferson, in his letter on the subject, after referring to the general disaffection of the lawyers, the bench and the people at New Orleans, says:

"The safety of the Union and the preservation of the country, all combined, create a law of necessity and self preservation which renders the *salus populi* supreme over the written law."

There was a direct violation of the Constitution, a direct, unqualified and absolute violation of one of its privileges. The party must be tried in the State in which the crime was committed, and yet he says the necessity of the Government—"the safety of the Union and the preservation of the country"—created a law of necessity which rendered the *salus populi*—the safety of the people—supreme over the written law.

General Jackson, in the Florida war, crossed the line into Florida, which then belonged to Spain, pursued the Indians, reduced the Ports of St. Marks, Pensacola and Barancas, for all of which there was no authority in the Constitution. The King of Spain demanded, as King Jeff, in the case of Butler demanded, that General Jackson should be punished for it; but John Quincy Adams, then Secretary of State, in an official reply to the demand, justified the acts of General Jackson on the ground of necessity and National preservation; and there was nothing more heard from the King of Spain. What has England done? She invaded our territory, burned the steamer Caroline, and murdered Durfee—all, too, upon the ground of necessity; and our Democratic Government acquiesced in that necessity. What did England do on another occasion? She entered the port of Copenhagen, a neutral port, seized neutral vessels and appropriated them to her own use, on the ground of necessity, claiming that that neutral power was unable to protect them from the enemy, and if taken by the enemy they would be used against the British Government. But when we ask England to interfere and stop piratical ships from being fitted out in her ports, there was not sufficient evidence to arrest the pirate and punish the person who had undertaken its construction. [Applause.] Now with all these cases before us in regard to the law of necessity, what is the case now presented to our country? Have we any law of necessity here? Are we in any danger? Have we traitors and spies amongst us? Look at our condition when the rebellion commenced. Look at the condition of Washington. Why were we connected by every relation with the rebellious States, by marriages, by commercial ties, by every conceivable tie. Even the Departments at Washington were full of traitors, making out plans to show to the enemy the precise condition and situation of our army, having a mail—a secret mail—regularly running.

#### REBEL MAILS.

And that reminds me of another of the peace provisions of the Constitution under which they seek to protect themselves in communicating with the enemy, and giving them every kind of information they may desire. They say that under the Constitution private houses and private property shall not be liable to unreasonable searches and seizures. Here are these secret mails, carrying all kinds of contraband information, and when they are seized upon they say the Government has violated the Constitution, because they have not been taken by due process of law. "Why did not you wait till they had departed, and the treason was consummated? Wait till your city is in flames, and then proceed according to constitutional forms." These are the absurd doc-



trines of the party which you are called upon to meet. These are the hypocritical positions which they assume. These are the cries you hear at every corner: "Free speech," "the writ of habeas corpus," "the greatest despotism the world has ever seen." That which will be a marvel to posterity is in what this "despotism" consisted, when men in public Conventions have met to denounce it, unmolested, as the greatest of despotisms. Either these men must have known that what they said was wholly and entirely false, or else they were persons of so little consequence that Government paid no attention to what they did say.

#### GOVERNOR DOWNEY'S RECORD AND HIS PLEDGES.

I will now, fellow-citizens, direct your attention to the record of ex-Governor Downey, who is a candidate before you for the Chief Magistracy of this State. He was Governor of California once before, but never was elected Governor. He was one of those accidental Governors; and I discover in regard to that class of persons, particularly if they are weak, that after they have once accidentally obtained an office you never can get rid of them forever afterwards. [Laughter and applause.] In May, 1861, immediately after the inauguration of the rebellion, a Union meeting was held in the city of San Francisco, and Governor Downey was invited to attend. He was unable to attend, but he wrote a letter, from which what I am now about to read is an extract:

"I did not then believe, nor do I now, that an aggressive war should be waged upon any section of the Confederacy; nor do I believe this Union can be preserved by a coercion policy. The future will reveal the soundness of this position."

Six weeks after he had written this letter he was a candidate before the Douglas Democratic Convention for the nomination for the office of Governor, in which Convention, before the candidates were nominated, a series of resolutions, to which the candidates each respectively pledged himself, were adopted. Among those resolutions were these which I am now about to read, and to these Governor Downey then pledged himself:

"That in this great crisis of the American nation and name, our State will always, as heretofore, faithfully discharge her constitutional obligations to the Union and Federal Government, and as in duty bound will earnestly sustain the constituted authorities at Washington in all measures necessary to defend and protect either against this most unjustifiable and unnatural war."

"That in the present overwhelming crisis, he who would seek, by reviving past partisan issues, to distract the people or to wrest from their honest and patriotic devotion some sordid partisan advantage, is not true to the country nor worthy of the name of an American citizen."

"That we hold our paramount allegiance is due to the Federal Government; that the right of State secession is a dangerous heresy, inevitably destructive of our form of Government."

"That obedience to the constitutional will of majorities is the only safeguard of republican Governments; that we will uphold the constituted authorities, under all circumstances and at all hazards, in maintaining Federal jurisdiction in its sphere, regardless of what party may be in power."

"That Governments are political organizations armed with coercive power, without which they cannot exist; that it is not only no assumption of authority upon the part of Governments, but their positive duty, to exercise such coercive power in order to maintain themselves against either foreign invasion or domestic rebellion." [Applause.]

In May, 1861, Governor Downey was opposed to coercion. He did not believe that this Government could be preserved by the exercise of coercive power. And in six weeks afterwards, as a candidate before the Convention, he endorsed the platform which I have read before you, declaring that it is the duty of the Government, the positive and sworn duty of the Government to exercise all its coercive power for the purpose of putting down the rebellion, of putting down insurrection and every disturbance of a domestic character. Governor Downey was defeated before that Convention; they were not satisfied with his sudden conversion from anti-coercion to coercion. [Ap-

plause.] After he was defeated, in 1862, in his last message, he states that in his opinion the Government cannot be preserved. That is the last we hear of Governor Downey until he makes his appearance in the 8th of July Convention. In that Convention, in his speech accepting the nomination, he used this remarkable language:

"It will be a proud position for me, if elected Governor of this State, that I can stretch forth the Executive arm to reach the poorest and the humblest citizen of the State. [Cheers.] It will be a proud moment for me to say, 'For what purpose has a citizen of the State been incarcerated?' [Applause and cheers.] Has he been confronted with his accusers? Has he had a trial by jury, as is guaranteed to him by the Constitution and the Bill of Rights? If the answer is in the negative, then it will be the duty of the Executive, as it is now and should be, to see that these provisions of the Constitution are complied with. [Cheers and applause.] What a proud position do the citizens of the Empire State occupy now amongst the adhering States of the Union. They are in a position where they have one source of power at least to look to for protection, and I am informed that since the inauguration of Governor Seymour the Constitution in this respect in the State of New York has not been trampled upon. [Cheers.] While I shall consider this as my duty, I also regard it as an evidence of the highest loyalty to the Government."

#### A CASE DIRECTLY IN POINT.

Here is a threat that if he should happen to be elected Governor of this State he will plunge the State immediately into civil war! Now I can direct Governor Downey's attention to a case in point; and I call upon Governor Downey, and I call upon the Copperhead Congressional candidates to answer the question involved. There are twenty Confederate pirates in Alcatraz, this day, without any process of law whatever. [Applause.] They were arrested without process of law; they are held without process of law; and they will continue to be held there, until it suits the convenience of Government to make a proper disposition of them. Now I wish to know from Governor Downey if he is elected Governor whether he will stretch forth his arm and release the men who were taken on board the Chapman, with all the munitions of war necessary for the purpose of preying, not only upon the commerce of the State of California, but upon the lives of her citizens? Will he restore them to their piratical craft? Will he return to them their munitions of war, their revolvers and outlasses, and convoy them out through the Golden Gate to the ocean, where they can strike the first steamer, rob her, murder her passengers—as was their intention, and the proof is direct and positive—and burn the ship. I ask him to come out plainly. Here is a case at home ready for him. Let him say whether he will stretch forth his puny arm and release the whole piratical crew, in defiance of the Government of the United States. I ask him, if he is honest, if he is manly, if he is bold and has got nothing to conceal, to come out and tell the people of California what he will do with the pirates now held without process of law in Fort Alcatraz. [Applause.]

#### DOWNEY FINANCIALLY SPEAKING.

A few days ago they issued in his name an address to the people of California. I will merely glance over the document; it is too long to be criticised fully; but there are a few points in it, however, to which I may be permitted to direct your attention. Mr. Downey says:

"Within the last two years more than two thousand millions of dollars have been expended, and upwards of two hundred thousand of our citizen soldiers have perished on the battle fields or in military hospitals."

And in another part he makes a sordid appeal to the people on the ground that they are to be amerced in most unreasonable taxes. They are willing to allow this Government to be overthrown on a mere question of dollars and cents. That is the appeal which Governor Downey makes to the people of this State—that is the insult which he offers to loyal California! "Two thousand millions!" It is only a few weeks ago that the official statement was published making the expenditure less than eleven hundred millions. The ex-Governor only misstated the truth to the extent of nine hundred millions. But his plea is, "Stop your Admin-



istration; let your Government go; place your Government in one scale and your money in the other, and let your Government kick the beam." This is his appeal to the people of California, and this is the appeal of his party all over the nation. I say the man who would barter away his Government for money should wither under the same curse that was pronounced against him who sought to buy the greatest gift of heaven with money—"May his money perish with him" [Great applause.] Three hundred millions of dollars of Continental money were issued during the Revolutionary war, without one cent ever having been redeemed. It went out of circulation. It passed away and a great Government sprung up in its place. Who is there now so base as to say that the price we paid for the Government was too great? [Applause.] And suppose it costs five times two thousand millions to preserve and perpetuate this Republican Government, this charter of liberty to generations yet unborn, untold in numbers; suppose that after all that is achieved every dollar is swept out of existence; would not we, would not mankind still be gainers? And yet we have this mercenary appeal made for the purpose of preventing the means of preserving the Government, for the purpose of destroying the very sinews of war. We have this appeal made to us day after day that it is costing too much and that it is more than this Government is worth. The Continental Congress passed a resolution requesting the several States to make the Continental money a legal tender in the different States. And in addition to that they asserted a principle, which was true then and is true to-day; they declared by a resolution that he who would not give his property for the money of the Revolution, dollar for dollar, as gold and silver, should be deemed an enemy of these United States. [Applause.] That was the language of the fathers of the Revolution. And when you hear men denouncing the legal tender law and the currency of the country, remind them of the great principles which our fathers adopted. If it was true then, and necessary to secure the liberties which we now enjoy, it is equally true now, and equally necessary to preserve and protect those liberties.

#### DOWNEY MINERALOGICALLY SPEAKING.

But Governor Downey goes on and raises another point. He says:

"It shall be my care, under all circumstances, to maintain the miners in the sole and undisputed possession of their claims, undisturbed by any edicts or orders of Federal authority, and exempt from any control or taxation by the Federal Government. I am induced to be thus explicit on this subject from various indications which have recently occurred, foreshadowing a disposition on the part of the present Administration to assert a control over the mines with a view to raise extraordinary revenue for governmental purposes. Such a course of policy will not be tolerated by our citizens, and if persisted in will result disastrously to the material interests of the State. My own opinion is fixed and unalterable, that *"to the miners belong the mines,"* and if elected to the Chief Magistracy of the State I pledge myself to employ all the power which the Constitution and the laws may confer on me to the maintenance and enforcement of this policy."

Now it is known that very recently, by some means which are not precisely understood on this coast, an order was issued from Washington that the Almaden mine should be seized, and that the military power should be used, if necessary, for the purpose of transferring it to the jurisdiction of the United States. This order, before its execution, was by the President revoked. Upon that Governor Downey tells the people of this State that their mines are in danger. And he makes an assertion which one would suppose that a man who had been Governor of the State for two years would have been too well informed ever to hazard. He asserts that the mines of this State belong to the State of California, and not to the General Government, and he says that if the General Government attempts to exercise jurisdiction, and he is Governor, he will use the whole power of the State for the purpose of resisting it. Here is a bid for the miners. [Laughter.] The State of California, when she came into this Union, came in under the following condition:

"The State of California is admitted into the Union upon the express condition that the people of said

State, through their Legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned."

This compact is binding and inviolable on the part of the State, and yet Governor Downey comes forward and tells us of the decision made by a Secession Judge, which is a part of this principle of theirs of State sovereignty, that the State owns the mines, and the Government has no claim in them. The Government has never interfered with the mines in California, but on the contrary Government has adopted the most liberal policy in regard to them; and if the miners are not better protected by the Government of the United States than they would be if Governor Downey and his party had them in charge, then their prospects are not very flattering. It is nothing but a sordid and mercenary bid for votes, which should be resented by every honorable, loyal, high-minded citizen. [Applause.]

#### DOWNEY LABORIOUSLY SPEAKING.

Again he goes on to give his reasons why he is opposed to the emancipation proclamation. He says it will bring hundreds and thousands of negroes to the State of California, and thereby ruinously affect the labor of white men. This is another unmanly bid for votes. [Applause.] How are the negroes to get here? How are the slaves of Georgia, Louisiana and South Carolina to come to California, even if they were all free this day? There is no means by which they could get here.

#### DOWNEY GENERALLY SPEAKING.

To sum up his whole address in a few words, he is bent upon plunging the State of California into a civil war. He is bent upon having a conflict between California and the Government of the United States. If the Conscription law is attempted to be executed here, and is resisted, and if the person or persons resisting is arrested, he says he will stretch forth his arm, with all the military power of the State, and rescue him. He says if the Government attempts to interfere with its property in this State, to tax or to dispose of it in any way, he will bring the State Government in conflict with the General Government. By some means or other, he seems to be determined to produce a civil war in the State of California. These who vote for John G. Downey will know the consequences to the State that will follow his election; and they who vote for Frederick Low will know that they are voting for a true, loyal man, who will use all the power of the State to maintain, defend and perpetuate this glorious Union. [Applause.]

#### CONFUSION OF FUSION.

I have a word or two to say in regard to this Copperhead fusion. After reading the platform or resolutions of the Breckinridge party of 1861 and 1862, and comparing them with the resolutions of the Douglas party of the same years, it would seem strange how those men, who were separated as far apart as the poles from one another, could, in 1863, come together. This affiliation was attempted in 1862. The Copperhead Douglas Democrats of that date said: "We have no objections to this affiliation—we rather like it; but we are afraid to do it publicly. If you will come to us privately it will be all right; but we cannot enter into it publicly." Now, one of their candidates for Supreme Judge—and I perceive by looking at the paper this evening that they have withdrawn their Judiciary ticket for the present—a thing that was altogether unnecessary, because if they had waited a few weeks the people would have withdrawn the whole ticket permanently for them [applause]—one of their candidates, as I was about to say, Tod Robinson, for whom personally I have entertained much respect, said in 1862, when talking of the proposed Union with Douglas Democrats: "I am for it. They have fallen down into a ditch, they are trying to climb out, and instead of kicking them back I am in favor of tendering them a helping hand." They have tendered them a helping hand. They have got them clear out of the ditch of the Union, into which Judge Robinson said they had fallen, but I fear they have fallen into another ditch from which neither Tod Robinson, nor all the powers of hell combined, can rescue them, and that is the ditch of treason to their country. [Applause.] But these men understood full well the political

character of the persons they were associating with. It required no platform of principles to enlighten them. They are "Southern sympathizers;" that is the mildest term we can apply to them, and as such they are well known. In your neighborhood, as in every man's; in your square, in your street, all over the country, they have all notoriously expressed their opinions, hostile to this Government, in favor of the Southern Confederacy, praying—those that ever do pray—night and day for the dissolution of the Union. It required no platform, or resolutions, or speeches. Yet these men, making pretensions to Unionism, who declared in 1862 that they would stand by the Government, and that all its coercive powers should be used to crush out this wicked and unjustifiable rebellion, have, notwithstanding all this, sat down to the same table, and extended to well-known Secessionists the right hand of fellowship. Now can you tell me the difference between joining the enemy in the field and aiding and assisting him at the ballot-box? Is it not precisely the same in the effect it is calculated to produce upon the destiny of your country? I say that men with their eyes open, that will do this, men that will do it understandingly and knowingly, would have sat down and supped with Judas after they knew he had the thirty pieces of silver in his pocket. [Applause.]

#### EVIDENCE OF TREASON.

In the Convention of 1862 the same men spoke, and gave utterance to precisely the same sentiments that they did in the Convention of 1863. This Convention of 1863 nominated, I understand, all Northern-born men, with the single exception of Judge Tod Robinson. I may possibly be mistaken in regard to one or two of the candidates; but, at all events, there was a large fusion, I may say, of Northern men into that Convention. And yet when men rose up in that Convention and said they were rearing up sons to send to the Confederate army to aid in destroying this Government, while they themselves were at the same time living under and enjoying its protection, claiming all the rights, and more than all, that the Constitution guarantees to the most loyal citizen, there was not one loyal voice to be heard in that Convention denouncing the treasonable speech. [Applause.] Oh, how could they endure it? Was patriotism, honor, manhood, all forgotten? Was the spirit of their fathers dead in them? A glorious victory had just been obtained on the bloody field of Gettysburg; the "Keystone" had proven to the world that she is the key of a great arch which traitorous hands can never break. [Applause.] Yet there was not one voice, not one heart full enough of patriotism to announce that single fact, or make the slightest allusion to it, in that whole Convention of three hundred men! And yet they claim to be the party that is ultimately to save this Union. The lion and the lamb, they say, are to lie down together; but when that event takes place the poor Government, which is the lamb, if it does lie down at all with this Copperhead lion, it will only be inside of the lion. [Laughter.]

#### THAT OATH.

Now, I ask, what loyal man could have listened to the sentiments that were enunciated in that Convention and then go out and support for office the very men who had uttered those sentiments? What loyal man is there in the State of California that can support that ticket? I do not wonder that a conscientious man, as Judge Robinson is, cannot take the oath prescribed by our statute. He has declared that he never will take it (I refer to this because it is a public matter, and he is or was a candidate), and I here state as my deliberate opinion that no man who would sit in that Convention and hear his Government and his section denounced as it was—every species of vituperation that could be uttered by men against the people, among whom he was born, where he was educated, where his fathers are buried—no man who could sit there quietly in his seat and listen to those sentiments, and then go out and vote for those candidates, can take that oath without charging his soul with perjury. [Applause.] He is aiding and comforting, and the oath is that he will not aid and comfort; he is aiding and comforting in every way and by every means in his power those who are in rebellion against this Government. He is weakening the power of the Administration—weakening the Union cause. Take away the means by which this war is prosecuted, and the rebellion will be a success, and re-

publican institutions will be a failure. Then, I say, they are right in not taking this oath. As long as it was required to swearing to support the Constitutions of the United States and of the State of California, they would take that oath three times a day; there was a wide margin for mental reservation and construction; but when you come to swear that you have not aided and will not aid the rebellion, that involves a fact susceptible of proof, and no mental reservation will protect him who takes it from the effect of a violated oath which may be made patent and clear. It is no wonder, then, I say, that they refuse to take that oath, because they wish to keep themselves in a position, when the opportunity is afforded, that is, when Downey is elected Governor, if that time ever does come in California, that they can render not only moral but physical aid to those who are in rebellion against the Government. [Applause.]

#### J. B. WELLER AGAIN.

Now, fellow citizens, I hold in my hand a printed speech, delivered, as it reads on the title page, by ex-Governor John B. Weller, at Petaluma, on the 6th day of June last. It is a defense, a labored defense, of the rebellion. You will perceive that this is a very long speech. There is a great deal in it that should be brought to the attention of the public, and subjected to criticism, because he is a candidate, and if he had not been I should not have referred to it in any manner whatever. But as he is a candidate, and as this is a campaign paper which has been scattered broadcast over the State, there are some points in it to which I wish to ask the attention of the voters of California. In the first part of his speech Governor Weller devotes a great deal of time to the task of proving that the South was justifiable in rebelling against the Government. Now one would suppose that on a proposition of that kind he would have stated Governmental acts that had been oppressive to the South. No such thing. He goes back twenty or thirty years, and he rakes out of the grave all the sayings of the most renowned Abolitionists in the country—of Wendell Phillips, of Garrison, Tappan, Horace Greeley, Helper, and a host of others, giving sometimes one line, sometimes two, and sometimes three or four lines, to a quotation, for the purpose of proving that these men in their speeches uttered such sentiments of hostility against the institution of slavery as justified the South in her subsequent rebellion against the Government. In another part of his speech he is particularly eloquent on the right of free speech. He fills the first part of his speech with these quotations from Abolitionists, and he says that the exercise of this constitutional right of free speech was a just cause for the dissolution of the Union. That is, it is perfectly right to use your free speech to the greatest extent for the purpose of destroying the Union, when the country is engaged in a war against rebellion, but you have no right to use this constitutional privilege when you attack the sacred institution of slavery. That is his argument. [Applause.] Now, all that he has said upon that subject is answered by a single sentence from a speech of Alexander Stephens, of Georgia, who is now Vice President of the rebel Confederate Government. In a speech at Atlanta, Georgia, before the Convention which decreed the State to be no longer a member of the Federal Union, he used these words: "Pause, I entreat you, and consider for a moment what reasons you can give that will even satisfy yourselves in calmer moments—what reasons you can give to your fellow sufferers in the calamity that it will bring upon us. What reasons you can give to the nations of the earth to justify it. They will be the calm and deliberate judges in the case; and to what cause or one overt act can you name or point on which to rest the plea of justification? What right has the North assailed? What interest of the South has been invaded? What justice has been denied, and what claim, founded in justice and right, has been withheld? Can either of you name to-day one Governmental act of wrong deliberately and purposely done by the Government of Washington of which the South has a right to complain? I challenge the answer."

There was the declaration of a Southern man, the Vice President of the rebellious Confederacy, a man who, since he uttered that speech, has perhaps done more to inflame and fire the Southern mind against the North than any other one hundred men in the whole



"Confederacy. Yet, when his State was about to withdraw from the Union, he pointed out the consequences, and challenged them to point to a single Governmental act wherein the North had been unjust to the South, and there was no response to his challenge. Yet Governor Weller, although unable to refer to one single act of the Government, undertakes to justify and excuse the South for the rebellion, because a few men in the North, in a time of peace, exercised the privilege of free speech, and denounced the institution of slavery. For that reason, although in all Governmental acts the North was just to the South, and more than just, still this man, in the midst of this rebellion, undertakes to justify it.

WELLER AS A STATESMAN.

I must necessarily pass over a great deal which I had intended to notice, as it is getting very late, but here is one other point which calls for attention. He says:

"I come now back to the question, Could this war have been honorably avoided? The records of Congress will show that when the venerable and patriotic Crittenden, who fully appreciated the impending danger, came forward in Congress with propositions to adjust the difficulty and save the country from the horrors of civil war, the Republicans gave them a cold reception and finally rejected them."

Now Governor Weller knew, and he could not be ignorant of the fact which he has here suppressed, that at the time when the proposition of Crittenden was rejected, there was in both branches of Congress a large working majority of the Democratic party. [Applause.] The Republicans in both branches were in the minority, and there was a Democratic President. Now upon what principle can a minority be charged with defeating a measure brought forward by the opposite party? Would it not have been fair and just in Governor Weller to have stated to his audience the whole truth; to have told them; "It is true that the party to which I belong had a large majority both in the House and in the Senate, but notwithstanding all that I charge the rejection of that measure of peace upon the Republican party." These are facts which he has not seen fit to disclose. Where is the fairness in making a charge so baseless, so entirely without foundation?

WELLER ON DOUGLAS.

Again he says:

"The Congressional records show, that after the election of Mr. Lincoln, no one labored with more ability and zeal to avert the impending storm than Judge Douglas. He was a member, as I have already said, of the Committee of Thirteen, appointed to draw up some plan of pacification to save the Union, and although he had a proposition of his own, he gave a hearty and cheerful support to the one submitted by Mr. Crittenden. I have recently turned to the debates immediately preceding this war, and I propose to make liberal quotations from his speeches, in order that his friends, who may not have had an opportunity, may see precisely where here he stood. On the 15th March, 1861, in the Senate, he said 'In my opinion we must choose, and that promptly, between one of three lines of policy: First—The restoration and preservation of the Union, by such amendments to the Constitution as will insure the domestic tranquility and equality to the States, and thus restore peace, union and fraternity to the whole country. Second—A peaceable dissolution of the Union, by recognizing the independence of such States as refuse to remain in the Union without such constitutional amendments, and the establishment of a liberal system of commercial and social intercourse with them by treaties of commerce and amity. Third—War, with a view to the subjugation and military occupation of the States which have seceded, or may secede, from the Union.' In speaking upon these propositions, he says: 'The first is the best and the last is the worst.'"

Now, Senator Douglas made this speech on the 15th day of March, 1861. It is true that several of the States had then formally withdrawn from the Union; it is true that they had formed a Government at Montgomery; but they had not levied war against the United States. Judge Douglas supposed, as a great many other true, loyal men at that time did suppose, this whole question, notwithstanding the decided steps that some of the Southern States had taken, could still

be settled and compromised, and that war—the last resort—might be avoided. Judge Douglas had just come out of a Presidential campaign. Never was there a period in the history of this country when party animosities ran higher than during that campaign. He did not feel any very great kindness toward the Republican party; that party had defeated him and destroyed the hope of his life. But that which Governor Weller has forgotten—that which, in justice to the memory of Douglas, it was his duty to have remembered before his audience if he did not intend by this isolated quotation to fix upon the memory of Douglas the stain of treason—I will now read. It was Governor Weller's duty to have brought before the country his whole record upon the proposition he was discussing. After Fort Sumter had been fired on, and the whole country sprung to arms, Judge Douglas was amongst the first to take his position on the side of his country. He immediately went to Illinois, his own State; the Legislature was then in session at Springfield, and he made a strong speech there in favor of sustaining the Administration—of sustaining the President in putting down the rebellion, no matter at what cost. From there he went to Chicago, and as if to satisfy the whole world that the rebellion—the armed attack of rebels upon the flag of his country—had severed every party tie, he addressed twenty thousand of his fellow citizens in the Republican Wigwam, from the very stand where Abraham Lincoln was proclaimed to the people of the United States as the candidate of the Republican party for their President. [Applause.] What did he say there? Listen to his words. They must come to Governor Weller as a voice from the grave, admonishing him to be just to the dead. [Applause.]

"But this is no time for a detail of causes. The conspiracy is now known. Armies have been raised; war is levied to accomplish it. There are only two sides to the question. Every man must be for the United States or against it. There can be no neutrals in this war; only patriots—or traitors. Thank God, Illinois is not divided on this question. [Cheers.] I know they expected to present a united South against a divided North. They hoped in the Northern States party questions would bring civil war between Democrats and Republicans, when the South would step in with her cohorts, aid one party to conquer the other, and then make easy prey of the victors. Their scheme was carnage and civil war in the North. There is but one way to defeat this. In Illinois it is being so defeated by closing up the ranks. War will thus be prevented on our own soil. While there was a hope of peace I was ready for any reasonable sacrifice or compromise to maintain it. But when the question comes of war in the cotton fields of the South or the corn fields of Illinois, I say the further off the better. We cannot close our eyes to the sad and solemn fact that war does exist. The Government must be maintained, its enemies overthrown, and the more stupendous our preparations the less the bloodshed and the shorter the struggle. But we must remember certain restraints on our action even in time of war. We are a Christian people, and the war must be prosecuted in a manner recognized by Christian nations. We must not invade constitutional rights. The innocent must not suffer, nor women and children be the victims. Savages must not be let loose. But while I sanction no war on the rights of others, I will implore my countrymen not to lay down their arms until our own rights are recognized. [Cheers.] The Constitution and its guarantees are our birthright, and I am ready to enforce that inalienable right to the last extent. We cannot recognize secession. Recognize it once, and you have not only dissolved government, but you have destroyed social order, upturned the foundations of society. You have inaugurated anarchy in its worst form, and will shortly experience all the horrors of the French Revolution."

The only reference he has made to Judge Douglas' Chicago speech is in these words: "Here you must allow me to quote from the last speech of Judge Douglas, delivered at Chicago in May, 1861, a few days before his death. This, it will be perceived, is after the attack on Fort Sumter: 'We must not invade constitutional rights. The innocent must not suffer, nor women or children be the victims—savages must not be let loose.'" Here again Governor Weller, by an isolated



extract, by a detached sentence, by suppressing the words of patriotism uttered in the same breath, as you will have seen from the passage I have read, endeavors to place Judge Douglas in a false position. What savages have been let loose? I know of no savages except the savages commanded and led by Albert Pike of Arkansas. But they only scalped the wounded and dying soldiers of the Union. Are these the savages to which Governor Weller refers? Let him explain. Why, if Governor Weller is a fair man—why, if he did not intend to mislead the friends of the dead statesman in the State of California, why did he not read Judge Douglas' dying speech to his countrymen? Why did he not tell them that Judge Douglas, their great leader, said there were but two sides to this question; that there could be no neutrals; they must be patriots or they must be traitors. [Applause.] Where, let me ask, does that single sentence place Governor Weller? Is he on the side of his country? Is he neutral? If he is not on the side of his country, if he belongs to any other party than the one that is for his Government—Judge Douglas says there can be only two—then he comes fully within the denunciations of the dead Senator. [Applause.] I commend to this to him, and I ask him in the next speech he makes to do justice to Judge Douglas, and not seek to leave the impression upon the public mind that he in his last moments, as the last act of his life, favored the dissolution of this glorious Union. [Applause.] But a few days before his death, Judge Douglas received a letter from one Virgil Heacock of Springfield, Illinois, in which it seems that his course, after war had been levied, after Sumter had been fired upon, after the Capital was threatened and republican institutions placed in jeopardy, had been criticised. They asked him for some explanation in regard to his speeches at Springfield and Chicago. To that letter he replied thus:

"It seems that some of my friends are unable to comprehend the difference between arguments used in favor of an equitable compromise, with the hope of averting the horrors of war, and those urged in support of the Government and the flag of our country when war is being waged against the United States, with the avowed purpose of producing a permanent disruption of the Union and a total destruction of its Government. All hope of compromise with the cotton States was abandoned when they assumed the position that the separation of the Union was complete and final, and that they would never consent to reconstruction in any contingency—not even if we would furnish them with a blank sheet of paper and permit them to inscribe their own terms."

Again, in conclusion:

"If we hope to regain and perpetuate the ascendancy of our party, we should never forget that a man cannot be a true Democrat unless he is a loyal patriot." [Applause.]

He says, in the beginning of this letter, that his friends do not seem to be able to understand the difference between advocating an equitable compromise before the war had been begun, actually levied and waged, and the preservation of the country after they had ceased to be any hope of a compromise, after they had declared that the separation was final and eternal, and that if we would present them with a sheet of paper to write their own terms upon they would not accept it. And still, still we are told that they will come back! Still we are told that we must keep the door open for compromise, notwithstanding that these very men and this very party have been spurned from them with contempt. Why, the "quarry slave, that goes scourged to his dungeon," would feel some glow of manhood creeping through his broken, crushed, degraded spirit, were he so scorned and spurned as they have been by those owners of slaves. [Applause.] Thus much I have considered due to the memory of the dead statesman, who died as pure a patriot as any who ever shed his last drop of blood on the battlefields of our country. [Cheers.]

#### WELLER ON VALLANDIGHAM.

Governor Weller refers to Vallandigham as an illustration of the despotism of this Government. As I have already considered the case of Vallandigham in full, I will pass over that part of his speech. It is only necessary for me to say that he is in full sympathy with Vallandigham; that he considers him an oppressed person,

deprived of one of the chief guarantees of the Constitution; and if he does so sympathize with him, he must sympathize with him in every sentiment which I have read to you to-night which Vallandigham uttered; because no loyal man could feel any glow of sympathy for any record such as Vallandigham presents to the world. [Applause.]

#### WELLER ON SEPARATION.

Governor Weller says: "These men of the South believe that we have invaded their country to strip them of their property, reduce their wives and children to beggary and fasten the chains of slavery upon them. Can Americans, entertaining such sentiments, be subjugated? Can a people, who think and feel that they are fighting for all that makes life desirable, be conquered? No, sir! Never! never!"

Twenty-three millions of Northern men, according to Governor Weller, are unequal to eight millions of Southern men. The Northern man who would utter that sentiment is unworthy of the mother who bore him. [Cheers and great applause.] In the language of Jeff. Davis, he is fit only to be the slave of the owner of slaves; in the language of Hammond of South Carolina, he was born to be a mud-sill, upon which slavery should erect her palatial structures. Let no such man be trusted. [Renewed cheers.]

#### WELLER'S ACKNOWLEDGED KINDRED.

Here he exclaims, in a glow of proud satisfaction: "I am more fortunate in one respect than many of my countrymen. I have no kindred, to my knowledge, in either army or navy." Fortunate that he has no kindred in the army that is defending the Government of his country! Better had it been for Governor Weller, better for his children and his children's children, to their latest posterity, that before he uttered that sentiment his tongue had cleaved to the roof of his mouth. [Applause.] Oh, no! It was unnecessary to tell the people of California that. If you wish to find his kindred you would not go to the army that is fighting for the Constitution, for all that is dear to mankind, the light and the hope of the world. If you were looking for his kindred you would not look at the long lists of the honored dead that have fallen upon our glorious battlefields that this flag might wave over the spot where they fell forever and forever. [Applause.] Oh, no! But there is another army where you might find them in force, ready for the charge, and that is the great army of office seekers, led on by their veteran relative, who boasts of a service in that army covering a quarter of a century. [Laughter.] There is the place to find his kindred. You might look in vain in the army that is defending the Constitution and the Government against armed treason, against a paralytic rebellion warring upon the best Government the world has ever seen. [Applause.]

#### WELLER AS AN ARTIST.

He then goes on and draws a picture of some imaginary, manly, noble brother of his, fighting in the rebel ranks, hungry and shoeless. He hears of his death, goes and sheds a few tears, and then complains that for that he is liable to be dragged into a loathsome dungeon, for manifesting sympathy with the rebellion. Then he goes into a sympathetic effusion about some imaginary, noble, manly son, perhaps born in the South, fighting in the rebel army against the Government which furnished his father with bread for a quarter of a century. That imaginary son dies in the rebel ranks, and then his patriotic soul drifts into another burst of tears, and he is again dragged into a loathsome dungeon for manifesting sympathy. Now, all this has a meaning. These imaginary sons and brothers fighting in the rebel army, with relatives in California sending them aid, giving them comfort, all have more than an imaginary meaning. How many Southern men have you in California, who take the same ground? They claim to be thirty thousand strong. Governor Weller, then, in his imaginary pictures, is only presenting the case of many Southern men amongst us, claiming for them the right, under the Constitution, of giving all the aid and comfort and assistance in their power to this rebellion. That is the doctrine he announces, and the Government that interferes with them, that arrests them, that says, "You shall not arm your son, you shall not equip and send him to the rebellion to destroy the Government whose protection you are enjoying, because it is aid and comfort to the enemy," Governor Weller says is violating

the Constitution. He says to arrest that man is absolute, unqualified despotism, the worst the world has ever seen. Why, what is taking place in California every day? We have known a rebel General to leave here with his commission in his pocket, to fight against and destroy this Government, leaving his wife and children and his property under the protection of this Government and its laws. [Applause.] We have known repeated instances of this kind. And when they have fought as long as suited them against this Government we have found them returning to California, and taking their places here just as they left them. And they are doing all this, as they claim, under the peace guarantees of the Constitution. Is California neutral territory? Is it the Nassau of the Pacific, where the enemy can be furnished with supplies, from which it can receive every aid in men and money and munitions of war, and no notice is to be taken of it? They will claim it, as Governor Weller in his speech claims it, to be a right which the Constitution of their country gives them. This is the doctrine of the party which we are called upon to meet. This is the doctrine of the party which seeks to obtain control of the Government of the loyal State of California. Thus far our escutcheon is without spot, or stain, or blemish, and with the blessing of Heaven we intend that it never shall, while a single rebel gun is pointed at the citadel of our liberties, be disfigured or blurred with the foul touch of traitors' hands. [Cheers.]

#### WELLER'S SCHEME.

I will proceed, Governor Weller says he is in favor of an armistice. He announces himself in the beginning as in favor of the dissolution of the Union, and now he is in favor of an armistice. What does that mean? It means a cessation, a laying down of arms. It means more—that you shall enter into a treaty with the rebels against your Government that you shall recognize them as a power. It means disunion; it means treason in its worst shape. [Applause.] Suppose you do have an armistice; what is their plan, as proposed in Illinois? It is to withdraw from the Southern territory our forces, meet upon some neutral ground and agree to a dissolution of the Union. Suppose we do not agree, what then? Where would we be? At the precise point where we started, all our armies withdrawn, all the points so nobly achieved and held given up, and we begin the war again. They know that no thing of the kind can happen; an armistice means disunion and nothing else. That is the doctrine of Governor Weller, and if you elect him to the Congress of the United States that is the doctrine he will there advocate. [Applause.]

#### WELLER CLIPS CRITTENDEN.

I have one other proposition in regard to Governor Weller, to which I direct your particular attention. He charges the Union party with having perverted the object of this war. Here it is:

"I must now refer to the avowed object for which this war was to be prosecuted. At the outset, in order that the question might be clearly understood, the following resolution, offered by Mr. Crittenden in the House of Representatives, was adopted with but two dissenting votes: 'That in this National emergency, Congress, banishing all feelings of passion or resentment, will recollect only its duty to the whole country. That this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and to preserve the Union with all the dignity, equality and rights of the several States unimpaired, and that as soon as these objects are accomplished the war ought to cease.'"

Now, fellow citizens, Governor Weller has cut this resolution in two and given only the last part of it. Here is the first part of it, which he has purposely suppressed:

"Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the Southern States now in revolt against the constitutional Government and in arms around the Capital."

This part of the resolution specifically illustrates the first part of Governor Weller's speech, in which he attempts to prove that the North was the cause of the

war, and he cuts the resolution in two, because the whole truth would have refuted his argument, showing that the disunionists of the South have caused the war. That part of the resolution would have completely answered all the first part of his speech. Now when a lawyer misreads an authority to a Judge, or suppresses the true point decided, he gains the enviable sobriquet for himself of "pettifogger," and neither the Court nor the profession ever regard any statement either of law or fact which he afterwards may see fit to make. But who passed this resolution? He says it was adopted in the House with but two dissenting voices. Every Democrat in the House except two voted for that resolution, declaring that the disunionists of the South had caused the war, and every Democrat in the Senate except four voted for that resolution. And if I had time I could prove to you that there is not a single word contained in that resolution that has ever been violated by the Administration. They were to carry on the war for the purpose of restoring this Government. They could not foresee the exigencies of the war; they were to use all means necessary for suppressing the rebellion.

#### THE FREEDOM PROCLAMATION.

The proclamation, that glorious proclamation of the first of January, 1863, has proved itself to be one of the most effective means of suppressing the rebellion that has ever yet been adopted. Yes, on that day a great stone, reddened by the blood of freemen, was placed against the door of the sepulchre of American slavery, and which angels are too weak to roll away. It was for the issuing of that proclamation that they charged the Administration with having perverted the object for which this war was prosecuted. It is unnecessary to go into any investigation or defense of that measure; its effects speak for themselves. It was issued as a military necessity. The door was kept open for a year and a half in order that they might come back, and every day they were getting further away. Every day they were gaining in strength, and the Federal Government was losing in strength. What were the means resorted to for the purpose of bringing them back? Why, a Christian gentleman from the State of California, placed in a high military and civil position, deemed it to be his duty as one of the elements of conciliation necessary to restore and to bring back a revolted State, that he should, in obedience to a law of slavery, suppress a few schools where the poor ignorant children of bondage were being taught to read the "Story of the Cross." Can a Union ever be made to stand, can it ever be cemented in the bonds of Christian love and affection, that requires such a condition—that the poor ignorant children of bondage shall never know that the Savior died for them? That is made to depend upon shutting out the light and the hope of Heaven, the only solace of the enslaved, from the rayless path he is compelled to tread through his dark and cheerless life. [Applause.] I say the door was kept open for them, while at the same time they were declaring, in the most insolent, insulting language, that they never, never again would hold communion with the miserable Yankee nation. They made no exceptions; they included the Copperheads, and spurned them, too; but still, still the Copperheads are cringing under the lash and begging them to come back. "Oh, come back," they cry, "and you shall have everything you wish; if you must have slaves, take us; our servitude shall not be involuntary—we are willing slaves! [Applause.] Verily we have served you long and faithfully, and are ready to do it again—only come back!" [Applause.] Such is their language, notwithstanding that they have been spurned with contumely from the very feet of their masters. [Applause.]

#### WELLER DEFUNCT.

But Governor Weller winds up, and for the fifteenth time in his speech he finds himself in a loathsome dungeon. [Laughter.] He dies there and is buried, and then he writes his own epitaph. [Renewed laughter.] That was altogether unnecessary, because in a few weeks the people will bury him so deep that when Gabriel sounds his last trump he will be the very last to hear it. [Applause and great laughter.] Here is his epitaph:

"Here lies the body of an American who forfeited his liberty and died in prison for refusing to aid in slaughtering nine million men, women and children of



his own blood in order to give freedom to four millions of the African race."

It is possible that quite another epitaph may yet be written for him. And as it would be a pity to lay him to his rest alone, his old friend, the other ex-Governor, who has labored with him so long and so faithfully, might, I think, be buried in the same grave. Then their common epitaph might be made to read something like this:

"Here lie the bodies of John B. Weller and John Bigler, two ex-Governors of the State of California, who died of broken hearts, caused by the Ingratitude of their country, which, after having furnished them with bread for a quarter of a century, ignominiously cut off the supply, preferring the widows and orphans of the brave soldiers who gave their lives for the preservation of the Union. In life they were united in the glorious pursuit of office, and in death they are not divided." [Applause and laughter.]

#### LOATHSOME DUNGEON WELLER.

During this speech, Governor Weller has been dragged to a loathsome dungeon very often indeed. It is said to be a curious fact in regard to all those persons who feel that they are guilty of treason to their country, that their sleep is disturbed by horrid visions of prisons and loathsome dungeons, varied occasionally by a very clear view of an ingenious piece of mechanism standing in the background, the patent right for the invention of which is commonly supposed to have been first taken out by one Haman. [Laughter.] I do not pretend to say that this is at all the case with Governor Weller, but certainly in the course of this speech of a few pages he has been imprisoned oftener than any honest man I ever knew, within the same space of time. [Renewed laughter.]

#### ERIN GO BRACH.

There is one class of men in this State and in our country to whom I desire to address a few remarks. They are the countrymen of Emmett and of O'Connell—two names dear to the friends of liberty in every land—the very mention of which causes the despot on his throne to tremble and grow pale with fear. [Applause.] For some cause which I have never been able fully to understand, since our present great struggle commenced, they have deemed it to be their political duty to support the party that is opposed to the prosecution of this war—to support them at the ballot-box, I mean. It is true that many noble sons of the Emerald Isle have poured out their blood like water in defense of the country that has done so much for them, and that may hereafter do so much for their native land. It is true that their gallant leaders, Corcoran and Meagher, have covered their names with imperishable glory, and the eloquence of their orators is heard in every part of the country, exhorting their countrymen to come forward and save, not only this country, but to save their own, which is imperiled as well, from the consequences of disaster in this great struggle. Now, I have here a document which I wish to read, and I call upon every Irishman to ponder and consider it well before he casts his vote at the next election:

#### COPPERHEAD CONSPIRACY.

I refer to the conspiracy which the Democratic leaders in New York entered into with Lord Lyons for the purpose of securing the intervention of England and the other European Powers, to bring about a dissolution of this Union. In Lord Lyons' official correspondence with Earl Russell, he states these points:

1. They wished for foreign mediation.
2. They thought it must come at last, but were afraid it would come too soon, which they thought would arouse the war spirit.
3. That interference should be postponed until the Government was in their hands.
4. They wished to put an end to the war at the risk of losing the South altogether.
5. They desire that mediation shall come from all the great Powers, and not from England alone.

Lord Lyons adds that "he chiefs now call more loudly for a vigorous prosecution of the war." Can any Irishman read that and not understand the motives by which this party to which they are so much attached, which they have so liberally sustained in times past and intended to sustain again—I say, do not they understand the motives by which they are actuated? In the first place, they told Lord Lyons that if mediation came

too soon it might raise the war spirit. But at the same time he says publicly they were crying out for a more vigorous prosecution of the war. At this point allow me to digress a little. There is a party, or has been, in this State, belonging, as a general thing, to what was called the "Colton Brigade," which made the point against the Administration that the war was not prosecuted with sufficient vigor. When the Federal arms were victorious, then they were for peace, and when there were reverses they clamored for a more vigorous prosecution of the war. That is the doctrine of that party. A portion of them, how many I do not know, have fused with the absolute and unqualified Secession party of this State. Now, this fused Copperhead party do not want England to intervene alone. Why? Because they know that that moment every Irishman in this broad land would seize the first gun he could lay his hands on. [Cheers.] "Oh, no," they say; "don't do anything; tell the English not to interfere till we get the Government in our own hands—mark that—and then, by uniting with England, we will produce a dissolution of the Union. We must not let our Irish friends know this, because if the fact were made patent to them they would leave us in a body. And when it comes, let it come with force; bring all the powers of Europe upon us and crush us out; blot us from the map of nations. Then it is of no consequence what becomes of the Irishmen. They can be of no more service, and can do us no more harm." Let the Irishmen read this correspondence. I respectfully call upon the *Monitor*, of San Francisco, to place that official correspondence of Lord Lyons before its readers, that they may read and understand, and perceive the gulf into which they are being blindly led, before it is too late to retrace their steps. If there is a nation on earth that should rally, to a man, to the support of this Government, it is the Irish nation. They understand it full well in Ireland. They are coming to our country by thousands. The movement was becoming of such importance that England had to take official notice of it. They thought the United States had recruiting officers there; but it turned out that the Irish people in Ireland understood the nature of the contest here, and what would be the result to them if our republican Government were overthrown. They knew it would only fasten, hopelessly fasten, the chains of despotism upon their own oppressed and bleeding country. They knew full well that the pen with which the epitaph of Emmet is to be written must be made from a feather plucked from the wing of the American eagle, or it will never be written at all. [Applause.] I ask them then to ponder well before they cast their votes for this party which is in complicity with the rebellion. I refer them to the Confederate States Constitution, which disfranchises every man of foreign birth. Let them pay no heed to the emancipation of slaves; the end of this war will open to them new fields of well paid labor that have heretofore been circumscribed by a wall of fire that they never could penetrate. When this war shall have achieved its great purpose, labor will be dignified, and that which God commanded his creatures to do shall no longer be made dishonorable by the decrees of man. [Applause.]

#### SHALL WE COMPROMISE.

The next question I have to consider is: Shall we compromise? Why the very proposition implies dishonor, disunion and treason. Compromise! If a robber had attacked you, and you had him by the throat and your knife drawn, he might appeal to you—"Hold! we will compromise; I will take one-half of your money and quit." That is the nature of the proposition made. Rebellion is giving way. Yes, "rebellion;" this is no war against the people of the Southern States, or against the independent sovereign States themselves, but it is a war against rebellion, and whether States, people or slavery stand in the way, is of no account whatever; they must get out of the way. [Applause.] There can be no peace with slavery in it. Slavery is already dead, and its carcass at this moment is in an advanced state of decomposition. [Applause.]

#### RETROSPECTIVE.

The results, fellow citizens, of the last few weeks of the struggle in the East must be cheering to every loyal heart. There is not a corps of ten thousand men left in the rebel army that have not at one time or another

turned their backs and fled before the armies of the Union. [Applause.] For the first time they met freemen on free soil. They invaded the Keystone State, and the result was most glorious to the cause of liberty; they were driven in disgrace to their borders [Applause.] It was fitting that the second battle of Independence should be fought almost within the sound of that bell which on the 4th of July, 1776, announced to an astonished world that all mankind were born free and equal. [Applause.] I say it was fit that on that day this battle should come to a glorious termination, rehabilitating the nation albeit in blood. And as God set his bow in the clouds as a promise and guarantee that the earth should never be submerged again, so have the free men of America on the bloody field of Gettysburg made a pledge as immutable as the Government of their fathers shall never be destroyed by traitors. [Applause.] Oh, it was fitting on that day, the Nation's birthday, that the glorious stars and stripes should be once more reflected from the mirrored bosom of the "Father of Waters," from his source to the ocean, and that he should bear on his bosom the glad tidings that the dark shadow which the flag of treason had cast over him was removed forever. [Applause.] The "freedom of the Mississippi," that inspiring battle cry now has a wider, deeper, more significant meaning than attach to mere commercial regulations. It means freedom to all God's creatures—that none but freemen shall hereafter tread that great valley over which he holds sovereign sway and exclusive dominion. [Applause.] It re-establishes that great heaven-born principle of humanity, that none but himself shall be the owner of himself. [Applause.] It is said in regard to this proclamation of freedom, and it is said, too, by loyal people, that if at this day the rebels of the South were to lay down their arms—if Georgia and South Carolina were to lay down their arms and return to their allegiance, every slave there would assume his former condition. I deny that proposition. I say that that proclamation, issued on the 22d day of September, 1862, and affirmed by the second and final proclamation of the 1st day of January, 1863, made free every slave on the territory which it covered. [Applause.] It was a constitutional act of the Government, performed under the constitutional power by the President of the United States, an act which he had a right to perform. It was a military power, growing out of the necessity of the

case, which he had a right to exercise. And I say, further, that when a man is once made free, there is no power on earth that can return him to his former condition of slavery, except the power of despotism. [Cheers.] Then, I say, we will not give up any part of this glorious country. It is all, all, the land of Washington. Shall Washington, and Jefferson, and Jackson sleep in foreign soil? Shall any flag except our own dear flag ever wave over their ashes? [Applause.] And that gallant army of the dead, whose last prayer was, that the flag which they turned to look upon for the last time might wave over the spot where they fell forever and forever—shall our plighted faith to them be disregarded and violated? Oh, that gallant crew of the Cumberland! If they were to be surrendered to the enemy they would burst their watery cerements, and with their united voice, loud as that last terrible volley which they poured into the ranks of treason, when with colors flying they sank engulfed beneath the waves, would rise high above the storm, crying out upon us: "Shame! shame! shame!" [Cheers.] Shall our glorious battlefields be surrendered? Each one will be a Santo Campo which the devotees of freedom will visit from every country, as Christian pilgrims do the shrines of the Holy Land. The nation's gratitude will pierce the skies with column upon column in honor of the unconfined dead who died in freedom's cause. And, oh!

"While the tree  
Of freedom's withered trunk puts forth a leaf,  
Ever for *their* tombs a garland let it be."

[Applause.]

Our future shall be a future of peace. We shall go on in the fulfillment of that glorious destiny which Providence has laid before us, strengthening in moral, religious and civil liberty; and as it is said the angels in heaven progress in glory and intelligence as the ceaseless ages of eternity roll and roll on, finding no end, so shall the great principles of republican government continue to progress until that great day

"When Nature dies,  
And God and angels come to lay her in the grave."

[Applause and cheers.]

The meeting broke up at half-past 12 o'clock, with cheers for the speaker and for the Union.



7.  
The Second Reconstruction of Georgia.

SPEECH  
OF  
EUGENE CASSERLY,  
OF CALIFORNIA,

IN THE SENATE OF THE UNITED STATES, DECEMBER 17, 1869;

*On Senator Morton's amendment to the Georgia bill: and summary of the debate which preceded the passage of the bill.*

Senate bill No. 231, "to perfect the reconstruction of Georgia," together with the amendment of Hon. Mr. MORTON, of Indiana, being under discussion—

Mr. CASSERLY said:

I propose, sir, this evening at this time not to discuss the general merits of the bill. That I shall defer to a later period of this debate. I wish simply to say a few words on the subject of the amendment of the Senator from Indiana, and as that has undergone some change since it came here I ask the Clerk to report it again.

The VICE PRESIDENT. The Secretary will report the amendment as modified by the Senator from Indiana.

The CHIEF CLERK. The amendment, as modified, is to strike out of the eighth section of the bill the following words:

That the Legislature of Georgia shall be regarded as provisional only until the further action of Congress.

And in lieu of these words to insert:

That the Legislature shall ratify the fifteenth amendment proposed to the Constitution of the United States before Senators and Representatives from Georgia are admitted to seats in Congress.

Mr. CASSERLY. Mr. President, gentlemen feel, at least they express surprise, that what they call an outcry has been raised by Senators from this side against such a feature even in such a bill. It has been to some of them a special wonder that my friend, the Senator from Ohio [Mr. THURMAN] who first spoke on this subject, should have denounced with deserved warmth and earnestness this scheme,

stated with a frankness which amounts almost to grossness, to coerce not merely the State of Georgia, unfortunate, helpless, worse than a captive as she is, but through her States of this Union against whom in their relations to the General Government and to the Union no scintilla of reproach can be found. Is it a proper thing that at this day the Senate of the United States should be sitting here to concert measures of coercion for a reconstructed State—a State of your own reconstruction, a State of your own making? Is this all that the statesmanship of your Radical party has to show after four years of peace—ay, more than four years; four years and many months? Is this all that the country has in return for the torrents of blood she has poured out and the millions of debt she has assumed, that to-night, in the month of December, 1869, we are sitting here, some of you, the majority here unfortunately, seeking to pass through this body further measures of force and coercion, of violence for this State, and we, too few, alas, endeavoring by such means as are left in our power to prevent the passage of these measures? Can there be a more complete and crushing condemnation of Radicalism? Can there be a more decisive proof how utterly empty it is of all capacity to deal with the actual problems of government? Why, sir, what sort of statesmanship is it that to-day has nothing better than the brute cure of the bayonet for the troubles which you say exist in Georgia? You have had your will, gentlemen, with this subject. There has been nothing to hinder you. If the Supreme Court was

suspected of a disposition to decide otherwise than as you wished you legislated it into silence. If the President undertook to interpose his constitutional veto you had a power which enabled you, with or without argument, frequently without a word of debate, to override his vetoes and to pass any measures you desired.

I say you have had everything in your own hands. You have had complete command of the subject. Why, then, have you not pacified the South? Why have you not brought back those States to the Union? When some childless mother, sitting by her lonely fireside in a cottage of New York or Ohio, sees through a mist of tears her first-born fall upon the distant field where the swaying standards mark the eddying currents of the fight, and she asks herself, "What has become of the Union for which my boy died?" I demand to know what answer you have to give. You, grave and reverend Senators—what have you done with this Union? Why has all this blood been spilt? Why has this mountain of debt been laid upon the country? To-night you are as far away from any result, even on your own theory, that is satisfactory to you in the State of Georgia; that well-named Empire State of the South—imperial in her resources, in her capacities for power, for greatness, for every kind of real progress and high development under any government worthy of the name—you are as far away, yea, you are further away from a restoration of that State to her normal relations with the American Union than you were on the day when Lee laid down the standard of his lost cause on the field of Appomattox almost five years ago.

It was a just reproach by the greatest of living Englishmen, the truest tribune of the people that England has produced—it was a most just reproach when John Bright in the House of Commons said to the British minister, "After so many years of your government in Ireland you have nothing better to-day as a remedy for the troubles of that country than violence, than the sword, than the suspension of the writ of *habeas corpus*." And you, Senators of the United States, what better have you to-day to offer for the restoration of the power of the Union in Georgia, for the restoration of Georgia to the Union, than violence and the bayonet and the suspension of the *habeas corpus*; for her government, your Army and Navy?

You coerce her and you coerce us. You force my State of California under the yoke of your fifteenth amendment, an amendment which throughout all her borders she abhors; for which there was no cordial or satisfactory support even in the ranks of your own party. There is a large body of Republicans in that State of unusual intelligence, breadth, and liberality of thought and feeling. The adventure of their life, and the experience they have gained in that new field have enabled them to

throw off the trammels of early prejudice. They look at these questions from their distant standpoint with a broad glance. These men, honorable, high-minded, and intelligent, turned from you in disgust at the extreme breach of faith involved in your attempt to force the fifteenth amendment upon the States of this Union in the very first session of Congress after the Chicago platform was made and General Grant was elected upon it. The result has been that the overthrow of Republicanism is so utter and complete in that State that there is not enough of it left to constitute a healthy opposition. Yet through Georgia you are seeking to coerce the State of California. It is perfectly and entirely true that the blow which you strike at Georgia pierces every State of this Union; and that in compelling that helpless State by your Army and Navy to accept your amendment you coerce every other State that has not yet accepted it. Yet gentlemen are surprised that we repel with warmth this scheme; that we speak of it, as my excellent friend from Kentucky [Mr. DAVIS] said, "with ardor;" that we argue against it as strenuously as we know how.

The Senators from Oregon and Nevada have informed us, the one that you have been listening to these arguments for years until you are tired of them; the other, [Mr. NEE] that it is "the old cry." Yes, it is an old cry. It is a cry as old as human suffering wrought by human guilt. It is the old cry that in the first days of the world went up from a brother's blood foully spilt by a brother's hand. It has gone up ever since, and it will never cease to go up, never cease to weary the ear of the oppressor and to stir the heart of humanity so long as there is a victim to be defended against cruel wrong. I beg gentlemen to observe that if they will bring forward such measures as this, each one worse than that which went before it, they must be content to hear such objections and in such language as their proceedings deserve.

Coercion is contemplated here. It is avowed all around the other side of the Chamber. The only difference between gentlemen is as to the mode in which it shall be accomplished; whether express, by the frank, straightforward provision of the Senator from Indiana, or by a tacit understanding in the manner suggested by the gentlemen to whom we are indebted for this bill. Has it ever occurred to gentlemen who are dealing with this great subject in this spirit that it must be impossible to maintain an amendment carried by the coercion of any one or more States upon the votes of which States the amendment has to depend for its ratification? Can there be such a thing in law or in politics as a ratification which is the result directly or indirectly of undue external influences applied to the party ratifying?

Now, Senators, do not let us look at these great subjects as though we were lawyers seeking to entrap each other in a lawsuit in a



county court, and endeavoring to gain some small advantage out of technicalities for a grasping client. It seems to me, if I may say so, with the greatest deference to the gentlemen on the other side, that one very bad feature of the discussions which I have heard in this Chamber, or which I read before I came into it, has been that it seems to have escaped the attention of gentlemen that it is not a lawsuit they are engaged in; that it is not a point of practice before a court, nor a point of hard, technical law which they are discussing; but that they are dealing with a great question of public policy, of government, not of a few people, but of millions of their flesh and blood; of the government of those millions, not under a harsh, inequitable, and oppressive system, but under a system which in theory and in practice has been and should be the most benign, take it altogether, with which a merciful Providence has ever blessed His human creatures.

It follows, in all this matter of reconstruction, that you entirely mistake the spirit of the controversy when you overlook the greatness of the subject. You never can, you never ought to try to accomplish great results in government by technicalities. Nothing can be more foreign to the spirit in which such subjects should be approached. Nothing can be further from the least pretension to statesmanship, even if on any technical ground it could be justified; or rather, I will not say justified, but sheltered. If you attempt to coerce this State or any State into the ratification of your amendment, nothing is more clear than that it must be fatal to yourselves as a party in your permanent future position and success in the country. Gentlemen may argue—and for the sake of this discussion I will grant they may argue successfully on technical grounds of law—that Congress may enact an untruth in reference to this ratification; that it may declare an amendment ratified duly which has not been ratified as a matter of law, fact, justice, or right, either because it was ratified by fraud or violence, or by less than the number of States that should ratify. I say, for the purposes of my present argument that may be true, as was asserted here the other day, and yet it would be the worst mistake that a powerful, dominant party ever made in a country to attempt to make a great change in government behind the shelter of a mere legal technicality of that kind.

There are in the law what we call fictions; there are also what we call estoppels, very difficult for plain people to understand, whereby a man is not allowed to prove the actual fact against what is called a record, or against a certain state of judicial proof. Nothing, generally speaking, can be more incompatible with the ordinary reason and common sense and love of justice of mankind; and no great party, I repeat, ought to attempt to accomplish a grave change in Government under a fiction of law

or with the hope of sheltering itself behind an estoppel. Your amendment will have to stand upon its merits, Senators, if it is to stand at all. First, it must be an amendment which is just in itself and satisfactory in its results. In the next place, it must be an amendment which has been fairly carried without any attempt to subvert the States required to ratify to improper or unlawful influences.

A ratification—and this is equally true whether you speak of a community or an individual—a ratification in its essence supposes two things: first, that the party ratifying is perfectly free to say yes or no; that is, that the party ratifying stands at arms' length from the party seeking the ratification; and in the next place, that the party ratifies with full knowledge of all the circumstances. The grand point, the central idea of ratification in law or in government—and law is only a part of government, and as a rule the more like a statesman a lawyer is the greater lawyer he is; no small lawyer was ever anything but a mischievous politician—is precisely the same as with regard to an individual. There can be no ratification where there is no perfect freedom of action and absence of fraud.

What has Congress to do with the ratification by the States? The function of Congress is ended when it proposes. It has nothing else to do with the subject, just as the function of the President is ended, in appointing to office, when he proposes a name to you. Suppose he should surround this Chamber with an armed force and forbid you to go out for meat, drink, fire, or candle-light until you had agreed to his nominee, would that be a valid confirmation? Would that be an act of ratification which would bind any one? Would it bind this body any longer than until the external force was removed? That is entirely too plain for argument. Therefore I say that the coercion which by the declarations of Senators is to be exerted upon Georgia, whether it be expressed in the bill or omitted from it, is coercion that invalidates all ratifications which have in any substantial or material degree been affected by that coercion.

I could not but be struck by the tenor or the arguments used by the gentlemen on the other side as to the form in which this coercive force was to be employed. The author of the amendment insists upon having it in the bill. The gentleman who reported the bill from the Judiciary Committee insists that there should be nothing said about it. Both are agreed that as a matter of necessary policy for their party, and the Senator from Indiana expressly and distinctly stated as the only mode of making sure and certain the fifteenth amendment—the vote of Georgia must be obtained for the amendment, and that until it was obtained she should not be restored to her rights in the Union. I did not perceive that any other ground was

anywhere taken than that of mere party expediency. The gentlemen who thought that the dangerous word coercion should not be in the bill feared it would damage them in future conflicts. A gentleman who insisted it should be in the bill declared that it would not, and that it was more honorable to announce to the people of Georgia, in black and white, what was expected from them, infinitely more, than after they had done whatever the law called for to turn around upon them and require some new condition.

Two Senators—I refer to the Senator from New York [Mr. CONKLING] and the Senator from Indiana, [Mr. MORTON]—had a colloquy this evening, in which they settled among themselves, very much to their own satisfaction, that the objection of this coercive feature in the bill could never be raised by the Democratic party, because, as they said, the precedent for it was to be found in the policy of President Johnson for the reconstruction of the southern States. It was said that his course was always to require of them conditions precedent to their restoration into the Union; and that in this he had been indorsed and sustained by the Democratic party. I never contest the right of those two gentlemen or of any other two gentlemen of this Chamber to settle for themselves and between themselves how they esteem the Democratic party to be led and in what way they suppose the Democratic party will be bound. But as one member of that party, who has felt some interest in its course, I must be allowed to insist that when the Democratic party proposes to be bound by the action of any gentleman in station, high or low, it will signify it to the world in a manner too plain to be misunderstood.

Mr. MORTON. My friend will allow me to inquire of him whether he understood me as making such an argument as that?

Mr. CASSERLY. I understood the argument to proceed from the Senator from New York, that is to say, that the Democratic party was bound by the proceedings of the late President Johnson. But I also understood clearly in the power of the Democratic party to raise that both agreed that it would not be the objection of coercion because they considered the Democratic party estopped by the authority of Mr. Johnson on that point. Now, I desire to have it understood, so far as I can make it understood, that the Democratic party of the United States is not bound by the policy of President Johnson on that point, or any other; though I think the country and the Democracy as a part of the country owe to him a debt of great gratitude for the very strenuous, honest, and fearless efforts which he made to assert the constitutional functions of this Government, and particularly of his office in the Government, against the opposition of the legislative branch.

Mr. THAYER. Will the Senator allow me to ask him a question?

Mr. CASSERLY. Certainly.

Mr. THAYER. Did or did not the Democratic party in 1866 indorse the reconstruction policy of the late President Johnson?

Mr. CASSERLY. I never so understood it. On the contrary, I know that in the State of California I drew a resolution in the State convention, the only one I think, and certainly it was the first ever passed in that State in regard to the policy of President Johnson. The spirit if not the language of it was that the Democratic party would sustain the President in his efforts to maintain the Constitution of the country and to assert the constitutional prerogatives of his office against the encroachments, as we declared them, of Congress. But as for indorsing the reconstruction policy of Mr. Johnson, I never have understood the Democratic party to occupy that position. Different men in it held different views, a right which most intelligent people are apt to exercise on the subject of politics, as they do upon theology and law and a variety of subjects. But I repeat the party as a party is in no manner responsible for the policy of the late administration upon any single measure, nor except so far as the policy of that administration directed itself in a general way to the maintenance of the authority of the executive department against the legislative under the Constitution. So far as that went, the Democratic party approved and indorsed it; no further.

Mr. CONKLING. As the honorable Senator referred to me, although I do not wish to interrupt him, I should like to make a single remark, with his permission.

Mr. CASSERLY. I have no objection.

Mr. CONKLING. I did make the suggestion he attributes to me, and in making it, passing over the solid support which Andrew Johnson received from the Democratic party in the two Houses of Congress, I referred to this fact among others: that in the State of New York, and in every contested congressional district in that State in 1866, the Democratic party did wage the issue distinctly of the President against Congress, and that battle was fought from beginning to end, and the votes were cast in that election as decisive of the question whether, in the grapple for the mastery upon this identical policy, Congress should go down and the President should be sustained. If the Democratic party did not stand for that it stood for nothing in that election.

Mr. THURMAN. If my friend from California will indulge me for a moment, if general testimony is to be given on this subject, I will state that the Republican State convention in Ohio—not the Democratic, but the Republican State convention—in the year 1865 indorsed President Johnson and his policy from first to last.

Mr. SHERMAN. That was a year before there was any contest, my colleague will allow



me to say, between Congress and the Executive. That was in June, 1865.

Mr. THURMAN. It was after President Johnson had announced his policy and begun the inauguration of the provisional governments.

Mr. SHERMAN. I beg pardon. The first provisional proclamation was issued in September, 1865, and the resolution to which my colleague refers was passed in June, 1865.

Mr. THURMAN. The first provisional government in North Carolina?

Mr. SHERMAN. Yes, sir. The first North Carolina proclamation I think is dated September, 1865.

Mr. CONKLING. October.

Mr. SHERMAN. I thought it was September. I know it was in the fall.

Mr. CONKLING. October 5, 1865.

Mr. SHERMAN. And that proclamation was one generally approved by the Republican party, and it contains the general doctrine upon which these whole reconstruction measures have been based.

Mr. THURMAN. In 1865, at any rate, they indorsed President Johnson. In 1866 the Democratic party in a convention expressly refused to indorse Andrew Johnson's administration, and never did at any subsequent time.

Mr. THAYER. My question related to the year 1866. The Senator from Ohio [Mr. THURMAN] answers in reference to 1865. That is a horse of another color. I undertake to say that the Democratic party of this country did indorse Andrew Johnson's policy in 1866, after the controversy grew up between Congress and Andrew Johnson; and I must be permitted to say now that Andrew Johnson seems to be enduring that keenest emotion of all, the sense of ingratitude. Sir, the time was, during 1866, when even in my State, on the frontier, a county convention of the Democracy could not take place unless they indorsed the policy of Andrew Johnson. I had the honor of participating in the canvass of 1867 in the State of Ohio, when my honorable friend [Mr. THURMAN] was a candidate before the people, and of making some speeches there and hearing speeches on the Democratic side, and I assert that the main issue there was whether the policy of the President or the policy of Congress should be indorsed and sustained. I have heard the declaration of the honorable Senators from California and Ohio with extreme regret. I regret that now, after they have made use of the late President, they should cast him aside like an old mule worn out; that having no further use for him they should turn their backs upon him and say they never knew him. Why, Mr. President, I remember, in 1866—

Mr. CASSERLY. Mr. President—

Mr. THAYER. I shall be through in a moment, if my friend will pardon me. I remem-

ber, in 1866, when the Democratic party were floundering about in the slough of despond, with no light to illuminate their course, how joyfully they seized upon the defection to his party of Andrew Johnson. Then they sang hosannas to his name, and in the language of Watts, sang:

"This is the way we long have sought,  
And mourned because we found it not."

[Laughter.] Andrew Johnson was then to lift them up.

Mr. MORTON. He was to be their Moses.

Mr. THAYER. Yes, he was to be their Moses, to lead them out of the wilderness; and now the honorable Senators turn their backs upon him and they say they never knew him.

Mr. CASSERLY. I beg the Senator from Nebraska to believe me when I say that had I been aware that the few words which I said on that subject would give him so much pain I should, perhaps, have been induced not to utter them. What I desired to say to the Senator from New York I think he has rather missed the point of. I denied the accuracy of his position that the Democratic party was or could be estopped by anything in the policy of Mr. Johnson requiring certain States of the Union to do particular things; to insert, for instance, an anti-slavery clause in their constitutions, and to adopt the thirteenth or anti-slavery amendment; as conditions precedent to their admission into the Union. That and that only was the subject of discussion. I said as to that the Democratic party was in no way bound by his policy, because it never had, so far as I was informed, given in its adhesion to it. I was not discussing what the Democratic party did with reference to the general contest between this Legislature and the President, as to the constitutional line of division between the Executive and Legislative powers. In that contest, as I said—and I beg leave to repeat it, and I hope the Senator from Nebraska will not have his sensibilities too much wounded by it—

Mr. FOWLER. If the Senator from California will permit me to interrupt him for a moment—

Mr. CASSERLY. I shall be happy to give my friend from Tennessee any time he wants if he will allow me to finish this particular statement. I said, and repeat, as to the great struggle between Congress and the President, the Democratic party, as a party, did undoubtedly sympathize with the President. This was because they were well convinced that the efforts of Congress if successful would lead to a serious if not a permanent disturbance of the balances of this Government, and to a centralization of power in a single branch of the Government, which would in time, if it remained and was progressive, as all such revolutionary force by a

law of its nature must be, entirely destroy the true nature of this Government.

Mr. FOWLER. If the Senator will now allow me, I wish to state that the North Carolina proclamation was issued on the 29th day of May, 1865.

Mr. THURMAN. Yes, sir; that was the time.

Mr. SHERMAN. I ask my friend to read that proclamation. If I remember it aright, the North Carolina proclamation contains just exactly the doctrines on which we base our reconstruction acts. Will the Senator have the kindness to read it?

Mr. FOWLER. I simply wished to correct the error into which Senators fell as to the date.

Mr. CONKLING. What is the date that the Senator gives?

Mr. FOWLER. The 29th of May.

Mr. CONKLING. That is true, if I may interrupt the Senator from California. He is so very courteous that he tempts us to encroach upon him a little. That is true; but it is also true that as late as the 22d of September of that year the President said to Mr. Stearns, now no more, in a conversation which he wrote down and carried to the President and which received his initials and his mark of approval before he published it, that his policy was wholly conditional and provisional, to the end when Congress met, and, to use one of the expressions then employed, when Congress met "my"—that is, the President's—"responsibility would end and that of Congress would begin." That would terminate the policy and adjourn and transfer the whole subject to the exclusive jurisdiction of Congress.

Mr. MORTON. And the Secretary of State certified that officially, too.

Mr. CONKLING. And the Secretary of State, as the Senator from Indiana says, certified it officially. I had forgotten that; but I well remember the conversation and the date of it. It was the 22d of September. In that fall the Republican party indorsed, as it has to this day, stood up and upheld that policy. But when Congress met, and the President assumed of his own motion to assert this doctrine as a permanent policy against Congress, then he transferred himself to the Democratic party, or the Democratic party transferred itself to him, and he became a part of their ownership and they a part of his ownership. That was my point, and I insist that the date I stated substantially is correct.

Mr. CASSELY. I have no disposition to make a controversy with my friend from New York as to his last statement. I do not admit it, but I shall not debate it. But I renew the assertion that there was nothing in the relations of the Democratic party to the late President to authorize the argument that it is in any way estopped by his policy from questioning the propriety, the admissibility, the good faith

or the constitutionality of a coercive power brought to bear upon any State to induce its ratification of a constitutional amendment. That was the sole point as to which I wished to correct the Senator from New York and the Senator from Indiana.

Gentlemen may be entirely assured that the Democratic party will take advantage of this as of any other weak point in their case. We shall expect, if this bill passes with or without the amendment, to appeal to the good sense, to the good feeling, to the sound heart and the clear head of the American people, which every day is recovering faster and faster from this fever of its blood, against a policy of coercion applied to the States on a question of such fundamental importance. We shall do it upon all proper occasions; we are willing to go to the country on that issue; and we propose to present our case, to present our proofs, to present our arguments, again and again, until at last we reverse the verdicts rendered against us either under misapprehension, prejudice, passion, or other undue influence.

For myself I regard as of comparatively little consequence whether coercion is expressed in the bill or is implied as a latent menace in the bill, as it undoubtedly is though this amendment were not there, because, in my humble judgment the validity of the ratification of this amendment is disposed of by two propositions which I think cannot be successfully contested.

My first proposition is, that there is no power except in a State in full function in the American Union, and in full relation with the Union, in all particulars a free State; and—though the word seems to be so obnoxious to the gentlemen on the other side—a sovereign State of the Union, to entertain an amendment to the Constitution or to ratify it. It is only the power of such a State which can operate on the subject at all.

In the next place, I submit as a most indisputable proposition that in any State which is held by military force, by the superior power of the Federal Government, such a thing as a ratification of a constitutional amendment is a moral, political, logical impossibility.

Upon both these grounds I regard your proposed ratification by Georgia, and all the ratifications that have been wrung out of other States while in the grasp of the armed power of this Government, as utterly null and void to all intents and purposes as a question of law, government, statesmanship, or human rights.

With these remarks, directed simply to the amendment of the Senator from Indiana, I close for the present. Whatever I have to say upon the general merits of the bill must be deferred until a later stage of the debate.

The VICE PRESIDENT. The question is on the amendment of the Senator from Indiana.

Mr. THURMAN called for the yeas and nays; and they were ordered.



Mr. CONKLING. May we hear the amendment reported?

The CHIEF CLERK. The amendment is, to strike out the eighth section of the bill after the enacting clause, and to insert:

That the Legislature shall ratify the fifteenth amendment proposed to the Constitution of the United States before Senators and Representatives from Georgia are admitted to seats in Congress.

Mr. MORTON. I will state that the Senator from Vermont [Mr. EDMUNDS] and the Senator from Pennsylvania [Mr. CAMERON] are paired off on the amendment.

The question being taken by yeas and nays, resulted—yeas 38, nays 15; as follows:

YEAS—Messrs. Abbott, Brownlow, Buckingham, Cattell, Chandler, Cole, Cragin, Drake, Fenton, Gilbert, Hamlin, Harlan, Harris, Howard, Kellogg, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Patterson, Pomeroy, Pratt, Ramsey, Robertson, Ross, Sawyer, Schurz, Scott, Sherman, Spencer, Stewart, Sumner, Thayer, Warner, Williams, and Wilson—38.

NAYS—Messrs. Bayard, Carpenter, Casserly, Conkling, Corbett, Davis, Fowler, Hamilton, Norton, Rice, Saulsbury, Stockton, Thurman, Vickers, and Wiley—15.

ABSENT—Messrs. Anthony, Boreman, Cameron, Edmunds, Ferry, Howe, McCreery, Pool, Sprague, Tipton, Trumbull, and Yates—12.

So the amendment was agreed to.

The VICE PRESIDENT. The Secretary will report the next amendment of the Senator from Indiana.

The CHIEF CLERK. The next amendment is, to insert as an additional section:

SEC.—*And be it further enacted*, That any person who shall hereafter hold and exercise any office created by the constitution or laws of Georgia, or attempt to hold and exercise any such office, or to act, or attempt to act, as a member of the Legislature of the State of Georgia, who, having held the office or exercised the duties of a Senator or Representative in Congress, or a member of the Legislature of any State of the United States, or held any civil office created by law for the administration of any general law of a State, or for the administration of justice in any State or under the laws of the United States, or held any office in the military or naval service of the United States, or of the militia of any State, and taken an oath to support the Constitution of the United States, and thereafter engaged in insurrection or rebellion against the United States, or gave aid or comfort to its enemies, or rendered support or aid to any insurrection or rebellion against the United States, or held any office under or gave any support to any government of any kind, organized or acting in hostility to the United States, or levying war against the United States, shall be deemed guilty of a misdemeanor, and shall, upon indictment and conviction thereof by the district court of the United States, be imprisoned one year and fined in any sum not exceeding \$2,000 nor less than \$500; and the provisions of this section shall be applicable to any person who shall have been elected to any office aforesaid, or to membership in the State Legislature, who after the passage of this act shall continue to hold and exercise, or attempt to hold and exercise an office, or to act or to attempt to act as a member of a State Legislature in violation of the preceding provisions of this section.

Mr. DAVIS. I would simply inquire if the effect of that provision is to prescribe as crimes in Georgia what are not crimes in any other State?

Mr. CASSELY. I beg that the Secretary may report the amendment again. I did not catch the whole of it. I think it is quite important. I do not see it in print.

The VICE PRESIDENT. It is printed with the bill known as Senate bill No. 281, but the Chair understands that part of it was omitted in printing. Does the Senator desire it again to be reported?

Mr. CASSELY. No, sir; I misunderstood the amendment. I have it here now.

Mr. THURMAN. Mr. President, I was not aware that such an amendment as this was to be offered. It first comes under my observation now. It seems to be unlimited in point of time; it extends to all time and it excepts nobody, even those whose disabilities have been removed by Congress.

Mr. MORTON. I will state to the Senator that there was an omission in printing the amendment. It does contain, as offered by me, a declaration excepting those whose political disabilities have been removed by a vote of two thirds of each House of Congress. That is an omission in the printing of the amendment, and I intend to offer that as an amendment to the amendment.

The VICE PRESIDENT. The Senator has a right to modify it now.

Mr. MORTON. I so modify it. That part of the amendment was intended to be included, and was omitted in printing.

The VICE PRESIDENT. The modification will be read.

The CHIEF CLERK. After the word "States," in the twentieth line of the amendment, it is proposed to insert: "except such as have had their disabilities removed by a vote of two thirds of both Houses of Congress."

Mr. SHERMAN. I should like to have the whole of it read now.

The VICE PRESIDENT. The Secretary will report it in full as modified.

The CHIEF CLERK. The amendment, as modified, is as follows:

SEC.—*And be it further enacted*, That any person who shall hereafter hold and exercise any office created by the constitution or laws of Georgia, or attempt to hold and exercise any such office, or to act, or attempt to act as a member of the Legislature of the State of Georgia, who, having held the office or exercised the duties of a Senator or Representative in Congress, or a member of the Legislature of any State of the United States, or held any civil office created by law for the administration of any general law of a State, or for the administration of justice in any State or under the laws of the United States, or held any office in the military or naval service of the United States or of the militia of any State, and taken an oath to support the Constitution of the United States and thereafter engaged in insurrection or rebellion against the United States, or gave aid or comfort to its enemies, or rendered support or aid to any insurrection or rebellion against the United States, or held any office under, or gave any support to any Government of any kind organized or acting in hostility to the United States, or levying war against the United States, except such as have had their disabilities removed by a vote of two thirds of both Houses of Congress, shall be deemed guilty of a mis-

demeanor, and shall, upon indictment and conviction thereof by the district court of the United States, be imprisoned one year and fined in any sum not exceeding \$2,000 nor less than \$500, and the provisions of this section shall be applicable to any person who shall have been elected to any office as aforesaid or to membership in the State Legislature, who, after the passage of this act shall continue to hold and exercise, or attempt to hold and exercise an office, or to act or to attempt to act as member of a State Legislature in violation of the preceding provisions of this section.

[Mr. THURMAN having addressed the Senate against the bill and amendments; and other Senators having also spoken, the following proceedings took place:]

Mr. CASSERLY. Mr. President, I rise for information, merely to inquire what is now the condition of the bill and the amendments. I understood the Senator from Indiana to announce that he had withdrawn his amendment.

The VICE PRESIDENT. The last amendment. His first amendment in regard to the ratification of the fifteenth article was adopted; the other amendment was withdrawn.

Mr. CASSERLY. Is it in order now to offer any amendment to the original bill?

The VICE PRESIDENT. Yes, sir; to the bill printed in italics, which was substituted for the original bill by the consent of the Senate.

Mr. CASSERLY. There is language employed on page 6, line nineteen of the second section, that appears to have got there by inadvertence. I refer to the words "or involuntary." The language is "rendered voluntary or involuntary support or aid to any insurrection or rebellion against the United States." It seems to me that the words "or involuntary" never could have been meant deliberately to remain in the bill. I move to strike them out. I suppose the Senator from Indiana will agree to that.

Mr. MORTON. I think the words ought to be stricken out.

Mr. CASSERLY. I presume the Senator from Wisconsin also will agree to the amendment.

Mr. CARPENTER. I will say in regard to that word in the section that it is not there by any accident. It is understood that the gentlemen who are intended to be dealt with by this statute have had some considerable experience in taking oaths heretofore, and that if the statute compels them simply to swear that they have not rendered voluntary aid they will construe the meaning of that word themselves and hold that the pressure of public sentiment compelled them to go with their State into the rebellion, and therefore they rendered involuntary support by joining the army, involuntary because they would have been hanged by a mob if they had not joined the army. For the purpose of punishing every man who served in the army, that is, excluding him from this place, that word "involuntary" is necessary, and it was

put there from design. They can be relieved, of course, by act of Congress.

Mr. CASSERLY. It seems to me—and I beg my friend, the Senator from Wisconsin, to favor me with his consideration in what I am going to say—that his argument if good for anything is good for this, that all test-oaths are useless to try the consciences of men—a proposition to which I heartily agree, a proposition which is the lesson of all history. They are miserable devices any way; and, as all such things should do, they utterly fail of accomplishing the desired object. His argument, therefore, that this oath was intended by this particular language to cover the case of a set of men who, as he says, are experts in taking oaths with a reserved meaning, is a reason for rejecting any oath. It is not a reason, I respectfully suggest to him as a lawyer, as a member of this body, and as a man of natural humanity—it is not a reason for leaving in the body of the bill language which leads to this inevitable result, that every man, however innocent of any purpose or any desire to aid in the war against the Federal Government, who remained within the territory of the confederate States, and who under any pressure whatever paid taxes, for instance, or turned out forage or food under the actual presence and menace of a body of armed soldiers, would be disqualified and punished under this bill. Is that intended? Is there anybody with a spark of humanity who is willing to say deliberately that it ought to be a law of the United States in this day of the Christian era—that men who are not only innocent of any evil intent, but who themselves, the victims of a force which in their hearts they detested, were compelled to submit to a course of action which they would gladly have escaped from, are to be punished by an act of this Congress without the slightest fault of theirs? That cannot be meant. I move my amendment for the consideration of the Senate.

The VICE PRESIDENT. The amendment of the Senator from California is pending.

Mr. CARPENTER. I suggest to the Senator from California, as he is upon a legal criticism of this section, if he were to omit the words "voluntary or involuntary" entirely from the section it would then read:

Or gave aid or comfort to its enemies, or rendered support or aid to any insurrection or rebellion.

The words "voluntary or involuntary" are put there merely to explain to the man who is taking the oath what is the nature of the oath he is taking, it being the object of this bill undoubtedly to exclude the men who were in that condition. If he simply swears this oath that he has never rendered support, that means any kind of support, or support under any circumstances. The words "voluntary or involuntary" merely apprise the man who is to take the oath of what he swears.

Mr. SAWYER. I hope those words will be



stricken out, for in my opinion they would render ineligible not merely ninety-nine hundredths, but nine hundred and ninety-nine thousandths of all the men of arms-bearing age in the State of Georgia. I would add wherever a phrase of this kind occurs the word "voluntarily" or "voluntarily;" and I had written and have on my table four several amendments to this section, one of which was precisely the one offered by the Senator from California, and which I conceive is absolutely necessary to make this section effective and have anybody in the State of Georgia who was of the arms-bearing age during the rebellion eligible for State offices under this bill. The seventeenth, eighteenth, nineteenth, and twenty-first lines of this section all have the same feature. In the seventeenth line, after the word "thereafter" I would insert the word "voluntarily;" in the eighteenth line, after the word "gave" I would insert the word "voluntarily;" in the nineteenth line I would strike out the two words indicated by the Senator from California; and in the twenty-first line, after the word "any" and before the word "support" I would insert the word "voluntary."

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from California, to strike out the words "or involuntary" in the nineteenth line of the second section.

Mr. SAWYER. I will offer the amendments that I have suggested.

Mr. CASSERLY. I have no objection, if the Chair will allow me, to accept the amendments suggested by the Senator from South Carolina, one of which I had intended to offer next after the one which I have offered. I supposed they should be offered singly.

The VICE PRESIDENT. That would be the parliamentary method.

Mr. CASSERLY. Then the first one which I move is to strike out the words "or involuntary" in the nineteenth line on the sixth page.

The VICE PRESIDENT. That is now pending.

Mr. CASSERLY. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. DRAKE. I ask that the section be reported with the amendment.

The VICE PRESIDENT. The oath contained in the section will now be read as it will stand with the five amendments proposed.

The Secretary read as follows:

I do solemnly swear (or affirm, as the case may be) that I have never held the office, or exercised the duties of a Senator or Representative in Congress, nor been a member of the Legislature of any State of the United States, nor held any civil office created by law for the administration of any general law of a State, or for the administration of justice in any State or under the laws of the United States, nor held any office in the military or naval service of the United

States and thereafter voluntarily engaged in insurrection or rebellion against the United States, or gave voluntary aid or comfort to its enemies, or rendered voluntary support or aid to any insurrection or rebellion against the United States, nor held any office under, or given any voluntary support to any government of any kind organized or acting in hostility to the United States or levying war against the United States.

The VICE PRESIDENT. The question is on the amendment, which is to insert the word "voluntarily" in the seventeenth line, to insert the word "voluntary" in the eighteenth and twenty-first lines, and to strike out the words "or involuntary" in the nineteenth line.

Mr. WILLIAMS. I ask if it would be in order to amend the amendment?

The VICE PRESIDENT. It would be. It is now quite complex, but it would be in order to amend the words proposed to be inserted or to add to them.

Mr. HOWARD. I wish to suggest to the Senator from Wisconsin who has this bill in charge that he might accomplish his object, I think, by simply changing the phraseology, striking out the words "voluntary or involuntary" and inserting in their place the words "except by means of direct force;" so that it will read:

Or gave aid or comfort to its enemies, or rendered, except by means of direct force, support or aid, to any insurrection, &c.

Mr. CARPENTER. As far as I am concerned I should be willing to accept that. I wish to say, however, that I am about the only Senator who has not charge of this bill.

Mr. HOWARD. I think that language would be better.

Mr. SAWYER. I wish to say one word further in reference to this subject. I hear about me that if these words are put in it is of no use to pass the bill; and it has been suggested by a friend at my elbow that they can get negroes enough to make the Legislature of Georgia. Let me say if these words are retained here you cannot find negroes enough in the State of Georgia who can read and write who can do it, and for this reason: the planters during the rebellion were regularly levied upon for their slaves to go to work on the fortifications, and they rendered precisely the same kind of aid that I rendered under the circumstances to which I have alluded, and which thousands, indeed every man who lived in that section of country of arms-bearing age was obliged to render. The negroes helped to defend Fort Sumter. Thousands of them would be embraced in this provision. I am not ready to assume that all the people of the State of Georgia who were not on our side, are willing to swear falsely. I do not believe that by putting in these words we do anything which will imperil the results which we wish to attain. I think, on the other hand, that the leaving out of the word "voluntary," as has been sug-

gested, will render it an impossibility to get a Legislature in Georgia.

Mr. STEWART. The bill will not be good for anything if that amendment should be adopted.

Mr. CASSERLY. If it is in order to say a word I should like to do it. I must say I was not prepared for the opposition which this amendment has elicited. I supposed the lawyers in this body at least would understand what I regard as the enormity of attempting to legislate into a crime an act where the criminal intent is of necessity totally wanting. They had a law of treason in England deformed by monstrosities in every line, and there they had something of this kind, where a man could be tried, found guilty, and beheaded for acts which were wholly involuntary on his part; but there never was any such law in the United States; there is not any such now in England, and there ought not to be any such law in any Christian country. I repeat, Mr. President, if this bill shall stand as it is written the effect of it will be to make an act criminal in the total absence of any possible criminal intent. It may be true that you cannot draw a law which a bad man will not evade. That is probably true, especially as to these political oaths. You cannot draw an oath which a bad man will not evade; but it is equally true that for that reason you have no sort of right to propose an oath which is an oppression and injustice and a cruelty to thousands of innocent people.

The VICE PRESIDENT. The question is on the amendment of the Senator from California, as amended by the Senator from South Carolina, upon which the yeas and nays have been ordered.

Mr. STEWART. This does not appear to be understood, Mr. President.

Mr. SUMNER. I appeal to my friend to allow us to vote. I think we can vote it down.

Mr. STEWART. All right.

ADOPTION OF AMENDMENT PROPOSED BY MR. CASSERLY.

The question being taken by yeas and nays, resulted—yeas 29, nays 22; as follows:

YEAS—Messrs. Abbott, Anthony, Bayard, Buckingham, Casserly, Cragin, Davis, Drake, Fowler, Hamilton, Hamlin, McDonald, Morrill of Maine, Norton, Pratt, Robertson, Ross, Sausbury, Sawyer, Schurz, Scott, Sherman, Spencer, Stockton, Thurman, Vickers, Warner, Wiley, and Williams—29.

NAYS—Messrs. Brownlow, Carpenter, Cattell, Chandler, Cole, Conkling, Corbett, Edmunds, Fenton, Gilbert, Harlan, Harris, Howard, Morrill of Vermont, Osborn, Patterson, Ramsey, Rice, Stewart, Sumner, Thayer, and Wilson—22.

ABSENT—Messrs. Boreman, Cameron, Ferry, Howe, Kellogg, McCreery, Morton, Nye, Pomeroy, Pool, Sprague, Tipton, Trumbull, and Yates—14.

So the amendment was agreed to.

Mr. HOWARD. I should like to have that amendment reported as it stands. I do not think it is well understood.

The VICE PRESIDENT. The Secretary will report the clause as amended.

The CHIEF CLERK. The portion of the second section just amended reads:

Nor held any office in the military or naval service of the United States, and thereafter voluntarily engaged in insurrection or rebellion against the United States, or gave voluntary aid or comfort to its enemies, or rendered voluntary support or aid to any insurrection or rebellion against the United States, nor held any office under or given any voluntary support to any government of any kind organized or acting in hostility to the United States, or waging war against the United States, &c.

Mr. CARPENTER. I move that the Senate do now adjourn.

Mr. SUMNER. Let us adjourn until Monday.

Mr. CARPENTER. I will make the motion to adjourn until Monday next.

The VICE PRESIDENT. The Senator from Wisconsin withdraws his motion that the Senate do now adjourn, and moves that when the Senate adjourns to-day it adjourn to meet on Monday next.

The question being put, it was declared that the motion appeared to be agreed to; and a division was called for.

Mr. DRAKE. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DRAKE. Mr. President—

Mr. SUMNER. Is the question debatable?

The VICE PRESIDENT. The motion to fix a time for the adjournment is debatable to a limited extent.

Mr. STEWART. I was about to make an explanation, after which I think, when we come into the Senate and another vote is had on this proposition, it may be better understood. I do not think Senators understood this section of the bill when they voted as they did on the amendment of the Senator from California. In the first place it was assumed that it applied to everybody who was to be reelected in the Legislature; that is that all of them were to take this oath declaring that they had not given aid of any kind to the rebellion.

Mr. CASSERLY. The Senator from Nevada will allow me to inquire of the Chair whether it is in order to debate what was understood about a bill or amendment after it has passed?

Mr. STEWART. I want to make this explanation—

The VICE PRESIDENT. The bill is before the Senate as in Committee of the Whole, and a motion is made that when the Senate adjourns to-day it adjourn to meet on Monday next; and by the ruling of this body differing from the ruling in the other it has been held that that motion is debatable. A motion to adjourn simply is not debatable; that can be made at any time. That would take us till twelve o'clock on Saturday.

Mr. CASSERLY. My point was not that as to which I understood the President's ruling distinctly—

The VICE PRESIDENT. It has been the uniform ruling of the Senate that a motion to adjourn over is debatable.



Mr. CASSERLY. But when a question has been once decided can a Senator rise in his place and discuss whether those who voted on it understood it and proceed to explain it?

Mr. STEWART. We can vote on it again in the Senate.

Mr. CASSERLY. When it is back there; not sooner.

The VICE PRESIDENT. The bill is now in Committee of the Whole, and the amendment may be voted upon again in the Senate.

Mr. STEWART. If I had made this explanation a little while ago I do not believe the vote would have been the same that it was, because I know several Senators who voted under misapprehension. In the first place, it was assumed that this was an oath to be administered to all members of the Legislature; it was assumed that it applied to all the parties who were to be sworn in. Now the oath only applies to those who held office before the war. None of the colored men held office, and very few of the white men who were in that Legislature. Some fifteen or twenty of the whites, or at any rate not more than thirty at the outside, held office.

Of that number some eight or ten have already had their disabilities removed, so that it only applies to a few who held office before the rebellion and participated in the rebellion and who have been manipulating that Legislature. It is not requiring too much to apply this oath to those who held office previous to the war and subsequently gave any kind of aid to the rebellion, applying it only to that small class of men who have acted so badly and made all this trouble. I am prepared to believe almost anything of men who obtained seats by an arrangement with the colored men that all those elected should have their seats, and by which they got the vote of the colored men as they did under an understanding that all should have their seats, and after they had got their own seats turned round and expelled those colored men. They themselves were disqualified, and having got their seats by the vote of the colored men in the beginning they turned around and voted the colored men out—the most treacherous thing on record. There are only a few of them. They manipulated the whole thing; and I say whether they gave voluntary or involuntary aid to the rebellion, if they gave aid at all we should apply the oath to them in the strongest terms, just as stringent as the constitutional amendment is, certainly.

The VICE PRESIDENT. The Senator from Nevada will suspend. The Chair, upon reflection, is satisfied that the point made by the Senator from California is correct at the present stage. When this bill is reported by the Committee of the Whole to the Senate it will be again open for discussion, but the amendment now under debate having been agreed to, unless a motion to reconsider is made it is not

subject to discussion until the committee has reported to the Senate; it will then be open for debate again.

Mr. STEWART. I am through.

The VICE PRESIDENT. The question now is on the motion of the Senator from Wisconsin, that when the Senate adjourns to-day it adjourn to meet on Monday next.

Mr. STEWART. I suggest to my friend from Wisconsin that it would be better to withdraw this motion.

Mr. CARPENTER. I made the motion because I was requested to do so, and I withdraw it for the same reason.

The VICE PRESIDENT. If there be no objection the motion will be withdrawn. The yeas and nays having been ordered upon it it cannot be withdrawn except by the consent of the Senate. The Chair hears no objection, and the motion is withdrawn. The pending question is on the amendment of the Senator from Oregon, to insert the word "preceding" before the word "provisions" in the fifth line of the seventh section.

The amendment was agreed to.

Mr. CASSERLY. Section seven reads, "that upon the application of the Governor of Georgia the President of the United States shall employ such military and naval forces of the United States as may be necessary" to execute the act. I propose to amend that by inserting after the word "employ," in line three, the words "but under his own orders and control;" so as to read: "The President of the United States shall employ, but under his own orders and control, such military and naval forces," &c. I presume that will be the effect; but I wish to make it entirely clear, so that there can be no question about it.

Mr. SHERMAN. That amendment seems to me entirely unnecessary. The Constitution makes these soldiers under the command of the President. It is perfectly superfluous.

Mr. CARPENTER. The bill provides that the President shall employ the military forces, not delegate their command to somebody else not lend them for some purpose, but the President shall employ them. The President is Commander-in-Chief of the Army. When he employs the Army for a purpose directed by law they are supposed to be employed by him, under him, subject to his orders.

Mr. EDMUNDS. I would suggest to my friend from Wisconsin that if, as I suppose to be the case, we can command the vote of our friends on the other side in favor of this bill by agreeing to this amendment we had better go for it. [Laughter.]

The VICE PRESIDENT. The question is on the amendment of the Senator from California.

The amendment was rejected.

Mr. CASSERLY. The section is objectionable because it imposes on the President abso-

tutely an obligation to do whatever the Governor of Georgia asks for. Many men might be willing, even among those who did not support General Grant and do not support him now, to trust to him this great power, while few might be willing to trust it to the Governor of Georgia; yet practically that is the result of the section as it stands. I propose to amend it by striking out the word "shall" and inserting "may at his discretion." It seems to me all that is required, all that anybody can ask for—because I trust no member deliberately proposes to himself to make this bill a weapon of irritation and oppression—is that whenever the Governor of Georgia makes an application the President shall have the right to look into it, examine the facts for himself, and then in his good judgment determine whether he will employ the naval or military forces, and if so what number. There ought to be no objection to that, and I propose it as an amendment.

Mr. CARPENTER. I will suggest to the Senator from California that to accomplish his purpose he must amend the Constitution of the United States, which provides, without leaving him any discretion, that the President shall take care to execute the laws passed by Congress.

Mr. CASSERLY. I suppose the Senator from Wisconsin will not differ from me when I say that his suggestion is precisely the reason why I want to alter this bill, because if the President were not under any obligation to obey it it would not be very important how it was worded.

Mr. WILLIAMS. Will the Senator allow me to suggest to him that the section provides that the President is only to employ such forces as are necessary to enforce this law? Of course he is to judge of the force necessary.

Mr. CASSERLY. That still leaves the matter as to whether he shall employ any to the discretion of the Governor of Georgia. Now I repeat, and I am sure my friend from Wisconsin will agree with me upon second thought, that this bill, because it will be binding if it should become a law, should be worded so as to leave the matter of the employment of this force to the judgment of the President.

The amendment was rejected.

The bill was reported to the Senate as amended.

The VICE PRESIDENT. If there be no objection the vote will be taken upon concurring in the amendments, made as in Committee of the Whole, in gross.

Mr. EDMUNDS. Let us except that in the second section relative to "voluntary" and "involuntary."

The VICE PRESIDENT. That will be excepted.

Mr. SUMNER. That one which bores a hole in the bill.

The VICE PRESIDENT. The Chair does

not understand which amendment the Senator from Massachusetts indicates.

Mr. SUMNER. I mean the one introduced on the suggestion of the Senator from South Carolina, [Mr. SAWYER.]

Mr. EDMUNDS. That which strikes out the words "or involuntary."

The VICE PRESIDENT. The Chair understands that that is excepted. If there be no other exceptions the other amendments made as in Committee of the Whole will be regarded as agreed to. They are concurred in. The question is now on the amendment which strikes out the words "or involuntary" and inserts the word "voluntary" four times in the second section.

Mr. HOWARD. If it be in order, I move—

Mr. STEWART. Let us vote on this directly.

Mr. HOWARD. Very well; it will be afterward in order to move to amend the bill.

The VICE PRESIDENT. It will be.

Mr. DRAKE. I would say a few words on this amendment, and will endeavor to profit by the admonition which the honorable Senator from Wisconsin gave me a while ago not to get excited. I cannot conceive of any circumstances whatever which can justify us in legislating disqualifications upon any man for having given involuntary aid to the rebellion. The whole southern States are full of thousands and tens of thousands of men who in some form or other gave involuntary aid to the rebellion.

Mr. STEWART. I should like to ask the Senator from Missouri how many men there are who held office and gave voluntary or involuntary aid to the rebellion and subsequently revolutionized the Legislature by agreeing that if they could get their seats they would allow the colored men to hold their seats, and having got their own seats, expelled the colored men? There is a little brood of fifteen or twenty men who did that, and this applies to them.

Mr. EDMUNDS. Mr. President, the Senator from Missouri, I am afraid, has forgotten that by the act of the 23d of March, 1867, which provided for the registration of these people we enacted exactly the same thing on this subject of people who had held office before; and that is all we are talking about now. We made them swear then, without any qualification, that they had "never held any office" under the State and afterward engaged in insurrection or rebellion, without any "voluntary" about it at all.

Mr. WILLIAMS. That is the way it ought to be.

Mr. EDMUNDS. Then, all there is in this bill is this: it is merely to provide that the fact of having held an office and afterward having gone into the rebellion is enough to prevent a man for the time being from engaging in the reorganization of the State. It is not a permanent provision. It only endeavors to get



around the constant perjury that is being committed in that State, certainly as we know now, and to make the thing secure and right upon the very basis of the act that set them up, and nothing more.

Mr. DRAKE. I would state that in my opinion if this question were to come before any court in this country the word "engaged," used in the act that the Senator from Vermont has now referred to, would be considered as implying a voluntary engagement in rebellion, and that it would not be held to include the case of a man who was compelled to take part in the rebellion; and therefore I do not think that the law which he has quoted is at all on the same footing with the language of the section now before us.

Mr. HOWARD offered an amendment.

Mr. CASSERLY. Will the Secretary report the amendment?

The VICE PRESIDENT. Senators on the right of the Chair desire that the amendment should be reported. The Secretary will now report the proposed amendment of the Senator from Michigan, and the amendment made in Committee of the Whole to this line.

The SECRETARY. It is proposed to strike out the word "voluntary," the words "or involuntary" having already been stricken out in Committee of the Whole, and insert "except in consequence of direct physical force," and to insert the word "any" before the word "support;" so that the clause will read:

Or gave aid or comfort to its enemies, or rendered, except in consequence of direct physical force, any support or aid to any insurrection or rebellion, &c.

The VICE PRESIDENT. The question is on the amendment to the amendment.

Mr. SAWYER. I think the amendment which has been offered by the Senator from Michigan would compass very nearly, if not quite, the same object which I had in view in offering the original amendment. The collection of taxes would certainly come into the case, as would going into the rebel armies on compulsion. I therefore am quite willing to vote for this amendment.

Mr. DRAKE. I desire to make one suggestion. I think that the honorable Senator from Michigan has moved to put in these words perhaps not in the right place to accomplish all that he designs. I call his attention and the attention of the Senate to the structure of the sentence, and then he will see whether my view is correct or not: "or gave aid or comfort to its enemies." Would not the Senator wish that his amendment should apply to the act of giving aid or comfort to its enemies as well as to the act of rendering support or aid? "Or given any support to any government of any kind organized," &c. Would not the Senator wish his words to cover all these specifications of acts?

Mr. HOWARD. I should be content to

have the restriction apply to the giving support or aid to the insurrection or rebellion.

Mr. CONKLING. It means the whole thing because it is in the disjunctive, if he has done either of these things.

Mr. HOWARD. I think it is in the right place.

The VICE PRESIDENT. The Senator from Michigan insists on the amendment to the amendment as indicated by him.

Mr. DRAKE. Very well.

Mr. CASSERLY. If I understand the amendment, it is to substitute the words "except under direct physical force." Will the Secretary please read the exact words?

The VICE PRESIDENT. The Secretary will again report the words to be inserted.

The SECRETARY. In line nineteen, after the word "rendered," it is proposed to strike out the word "voluntary" and to insert "except in consequence of direct physical force," and before the word "support," in the twentieth line, to insert the word "any."

Mr. CASSERLY. How will the clause read then?

The SECRETARY. If amended as proposed the clause will read:

Or gave aid or comfort to its enemies, or rendered, except in consequence of direct military force, any support or aid to any insurrection or rebellion, &c.

Mr. CASSERLY. I think, with due respect to the honorable Senator who offered that amendment, that it is objectionable on two grounds. The first is, that it employs unusual words, whereas the words that have been inserted, if they stand, are words well known to the law. There is always danger in employing unusual words in a statute of this kind. It leaves a wide door open to construction and controversy. In the next place, the words do not suit the purpose of my amendment as adopted. The purpose of the amendment, as adopted, was that in no case should a man be held guilty of crime where the act was not entirely voluntary on his part. The phrase "direct physical force" goes but a small way toward becoming an equivalent for the word "involuntary." When a man pays a tax he does not pay it in consequence of direct physical force; he pays it under the general pressure, the moral pressure of government. What becomes of this and other cases of moral coercion which may be suggested? If a man pays a judgment before execution levied on his goods he pays not under direct physical force, but still it is not a voluntary payment; it is an involuntary one. Suppose a man had taken confederate currency in the ordinary transactions of life; that was giving aid and comfort to the rebellion, but it could not be said to be in pursuance of any direct physical force. It would be an absurdity to say so; and yet that would cover a very large class of cases.

I have observed, and I beg gentlemen who

differ from me on this point to observe with me, one important fact. I think if not a majority, a very respectable minority of the gentlemen from the southern States, who understand the situation of that country and who know exactly what the relations of men to each other were there—and I include among them the Senator from Missouri, [Mr. DRAKE]—who comprehend the whole bearings of this question, and who know how extreme the hardship would be in many cases to punish as a criminal one who had merely been an involuntary agent in producing a wrong result, have favored this amendment. On the other hand, those who have opposed it most strenuously are gentlemen who have been so fortunate as to have no practical knowledge of the workings of civil war in those States, gentlemen whose lot was cast in more favored lands.

I may be allowed further to say in reference to the illustration offered by the Senator from Vermont that it is not in point. The language which he read from the statute is general language. Now, where the language of a statute defining a crime is general the law always will treat the element of intention as a fact of which the burden of proof is on the accusetr. Three is but one criminal act in the law from which malice is implied, and that is murder. In all other crimes malice has to be proved; the intent has to be shown from some act or facts accompanying it. If this clause of the bill had rested in the general language employed by the statute read by the Senator from Vermont there would be very little objection to it. Although even then I should deem it more safe for the purposes of justice and humanity to insert the express words.

But here, Mr. President, you will observe and Senators will observe that in employing the words "voluntary or involuntary," as contradistinguished from each other, there is no room left for construction. You are compelled to hold a man who gave aid or comfort to the confederacy under the pressure of circumstances which it was not in his power to avoid just as guilty as a man who was foremost in forwarding the war. Now, sir, is it anything to say, with the Senator from Nevada, [Mr. STEWART,] that but a few men are to be affected by it? It would be a blot on the civilization of the American people to-day if its Legislature should deliberately place one human being in that situation.

Mr. HOWARD. Mr. President, with great respect to the honorable Senator from California, he must permit me to say that I think his mode of argument is rather too fine-spun. If I understand him correctly he supposes that a person who paid taxes in the ordinary routine of the State administration might under this bill be held to have rendered support and aid to the insurrection. That is a new view entirely to take of such language as this. When

this bill speaks of rendering aid and support to the insurrection or rebellion it uses language perfectly well known to the law of treason, and those words are as well understood in courts of justice as any other words in the language. They do not apply at all in any degree to the ordinary payment of taxes for carrying on a government. The bill can receive no such construction as that. A simple tax-payer to the confederate government of Georgia during the war who did nothing but pay his taxes to his actual *de facto* government has rendered no support, in the sense of the law, to the insurrection or rebellion.

This is all that I think it worth while to say on that subject.

The VICE PRESIDENT. The question is on the amendment to the amendment, offered by the Senator from Michigan.

Mr. CASSERLY. I ask for the yeas and nays.

The Vice President counted the Senate and declared that nine Senators seconded the call for the yeas and nays.

Mr. POMEROY. Not one fifth.

The VICE PRESIDENT. The number rising is not believed to be one fifth of the Senators present. The Chair will again count.

On a recount it was declared that there were but nine Senators rising.

The VICE PRESIDENT. The yeas and nays are not ordered.

A division being called for, the ayes were forty.

No further count being insisted upon, the amendment to the amendment was declared to be concurred in.

The VICE PRESIDENT. The question recurs on concurring in the amendment made as in Committee of the Whole, as amended.

The amendment, as amended, was concurred in.

The VICE PRESIDENT. The question recurs on the four other amendments inserting the word "voluntary."

Mr. HOWARD. I hope we shall not concur in them.

Mr. THURMAN. I ask for the yeas and nays.

Mr. SUMNER. No; no yeas and nays.

The Vice President counted the Senate, and eleven Senators seconding the call for yeas and nays, they were ordered.

Mr. CONKLING. Now let us understand what we are to vote upon. I do not understand it.

The VICE PRESIDENT. It is to insert the word "voluntary" at four places which will be reported by the Secretary.

Mr. CONKLING. No; the words need not be repeated. I understand it now.

The Secretary proceeded to call the roll, and Mr. ABBOTT answered to his name.

Mr. CASSERLY. What is the question?

The VICE PRESIDENT. The question is



on inserting the word "voluntary" in four places in the second section. An affirmative vote keeps the word "voluntary" in, a negative vote excludes it.

Mr. ABBOTT. Then I voted under a misapprehension. I vote in the negative.

The Chief Clerk called the name of Mr. ANTHONY, and he responded.

Mr. BAYARD. Mr. President—

The VICE PRESIDENT. The Secretary will suspend the roll-call. There seems to be a misunderstanding.

Mr. BAYARD. It is proper that there should be a clear understanding of this matter. I should like to know whether we are now voting to keep the word "voluntary" in the bill or to strike out "involuntary."

The VICE PRESIDENT. That part of the amendment striking out the word "involuntary" has been decided by the amendment of the Senator from Michigan to the amendment reported by the Committee of the Whole. That amendment having been amended by the vote of the Senate, the amendment, as amended, was agreed to. The question now recurs on four other propositions to insert the word "voluntary" in various parts of the bill. The Senate as in Committee of the Whole agreed to those four amendments, and the question now is on concurring in them.

Mr. SHERMAN. I desire simply to state that the word "voluntary" is not in the fourteenth amendment to the Constitution—

The VICE PRESIDENT. The Chair will state that the Senator from Ohio is going into debate, which is not in order pending the roll-call. The Chair was stating the effect of the vote.

Mr. SHERMAN. The roll-call was dropped.

The VICE PRESIDENT. The roll-call had commenced, and two Senators had answered. The Chair only stated the effect of the amendment, as there appeared to be a misunderstanding about it.

The calling of the yeas and nays was continued; and resulted—yeas 11, nays 42; as follows:

YEAS—Messrs. Bayard, Casserly, Davis, Fowler, Hamilton, Norton, Ross, Saulsbury, Stockton, Thurman, and Vickers—11.

NAYS—Messrs. Abbott, Anthony, Brownlow, Buckingham, Carpenter, Cattell, Chandler, Cole, Conkling, Corbett, Drake, Edmunds, Fenton, Gilbert, Hamlin, Harlan, Harris, Howard, Kellogg, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Patterson, Pomeroy, Pratt, Ramsey, Rice, Sawyer, Schurz, Scott, Sherman, Spencer, Stewart, Sumner, Thayer, Warner, Willey, Williams, and Wilson—42.

ABSENT—Messrs. Boreman, Cameron, Cragin, Ferry, Howe, McCreery, Pool, Robertson, Sprague, Tipton, Trumbull, and Yates—12.

So the amendments were non-concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The VICE PRESIDENT. Shall this bill pass?

Mr. BAYARD called for the yeas and nays; and they were ordered.

The question being taken by yeas and nays, resulted—yeas 45, nays 9; as follows:

YEAS—Messrs. Abbott, Anthony, Brownlow, Buckingham, Carpenter, Cattell, Chandler, Cole, Conkling, Corbett, Cragin, Drake, Edmunds, Fenton, Gilbert, Hamlin, Harlan, Harris, Howard, Kellogg, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Patterson, Pomeroy, Pratt, Ramsey, Rice, Robertson, Ross, Sawyer, Schurz, Scott, Sherman, Spencer, Stewart, Sumner, Thayer, Warner, Willey, Williams, and Wilson—45.

NAYS—Messrs. Bayard, Casserly, Davis, Fowler, Hamilton, Saulsbury, Stockton, Thurman, and Vickers—9.

ABSENT—Messrs. Boreman, Cameron, Ferry, Howe, McCreery, Norton, Pool, Sprague, Tipton, Trumbull, and Yates—11.

So the bill was passed.

Mr. CARPENTER. I move to amend the title of this bill by striking out the word "perfect" and inserting the word "promote;" so that the title will read: "A bill to promote the reconstruction of the State of Georgia."

The amendment was agreed to.

ADJOURNMENT TO MONDAY.

Mr. WILSON. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

Mr. CONKLING. I move that the Senate do now adjourn.

The motion was agreed to; and at twenty-six minutes past one o'clock a. m. (Saturday, December 18,) the Senate adjourned.





8.

“Fundamental Conditions” in Reconstruction Unconstitutional and Void—  
The Admission of Virginia—The Case of California.

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SPEECH  
OF  
**EUGENE CASSERLY,**  
OF CALIFORNIA,

IN THE SENATE OF THE UNITED STATES, JANUARY 20, 1870.

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During the debate in the Senate on the admission of Virginia several amendments were proposed as “fundamental conditions,” similar to those imposed on other “reconstructed” States. Some of these amendments were afterward adopted by very close votes, providing that Virginia should never so amend her constitution as to deprive any class of her citizens of the right to vote or hold office, or of school rights, as such rights are secured by the present constitution of the State.

By all the Democrats and many of the Republicans in the Senate these “fundamental conditions” were objected to as unconstitutional and void.

Mr. HOWE, of Wisconsin, cited the “express conditions” in the act admitting California into the Union, and argued at much length from them as precedents to show that Congress had the constitutional authority to impose these “conditions,” and thereby to take away from California powers which otherwise she might exercise.

Mr. CONKLING, of New York, opposed the Virginia “conditions” as unconstitutional, and contended that in all the cases, California among the rest, in which conditions of admission had been imposed on new States, they were such as Congress might lawfully enact.

Mr. CONKLING having concluded—

Mr. CASSERLY proceeded to discuss the “express conditions” of the California act. He said:

Mr. PRESIDENT: As the matter which is now being debated is one that concerns the State which I represent in part here I may be allowed a few words. From the remarks just made by the Senator from New York [Mr. CONKLING] it seems that at some time when I was not noticing the proceedings the Senator from Wisconsin [Mr. HOWE] cited the case of the act admitting California in support of the doctrine that certain provisions, denominated “fundamental conditions,” may be inserted in this bill now before the Senate. The fact that

I was not aware at the time of the observations of the Senator from Wisconsin is the less to be regretted because the Senator from New York has stated so well the true ground in reference to the “express conditions” of admission contained in the California act.

Mr. WILSON. Will the Senator yield to a motion to adjourn and make his speech to-morrow morning?

Mr. CASSERLY. I have no speech to make, simply some remarks.

Mr. SUMNER. Will not the Senator be good enough to allow a motion to adjourn to be made?

Mr. CASSERLY. I desire merely to make a few remarks, and I prefer to make them now.

Mr. WILSON. There is a special reason, I think, why the Senator ought to give way, and I hope he will do so to-night and speak to-morrow on this subject.

Mr. HAMLIN. If the Senator will allow me I will state the reason, for I suppose the Senator from Massachusetts alludes to me. I desire to say that the variety and extent of subjects committed to the Committee on the District of Columbia of the Senate and House of Representatives, I think are equaled by those committed to no other committee—

Mr. STEWART. Is discussion on a motion to adjourn in order?

Mr. HAMLIN. I have made no motion to adjourn.

The VICE PRESIDENT. The Senator from California has yielded to the Senator from Maine.

Mr. HAMLIN. I wish to say that the District Committee, both of the House and of the Senate, had agreed to meet the mayor of this city this evening at six o'clock for the purpose of an investigation into its schools, its roads,

and all that variety of subjects which have a general interest to the people of this District.

Several SENATORS. You can go and attend to that.

Mr. HAMLIN. I shall not leave this place most assuredly while this bill is pending. I shall stay here, and I hope the rest of the committee will stay; but I think that information which we could mutually give and impart to each other in the meeting that was to take place this evening is worthy of your consideration.

Mr. STEWART. The District of Columbia we always have with us.

Mr. ANTHONY. I hope the Senator from California will yield to a motion to adjourn.

Mr. HAMLIN. And those who do not do anything for the District we always have with us.

Mr. STEWART. And those who have done nothing with it we always have with us; that is, a majority.

The VICE PRESIDENT. The Senator from California is entitled to the floor if he claims it, and he is still standing.

Mr. CASSERLY. I am reluctant to hold the floor against a motion of this kind, backed by such reasons. Hence, though I shall vote against the motion to adjourn and hope it will not carry, yet I shall not undertake to prevent any gentleman, especially the Senator from Maine, who is one of the oldest Senators here, from making a motion which he conceives concerns so deeply his personal convenience.

Mr. HAMLIN. Then, with the permission of the Senator from California, I submit the motion to adjourn to the consideration of the Senate.

Mr. STEWART. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 24; as follows:

YEAS—Messrs. Anthony, Brownlow, Buckingham, Chandler, Fenton, Gilbert, Hamlin, Harlan, Harris, Howard, Howe, McCreery, Patterson, Pomeroy, Pratt, Rice, Robertson, Schurz, Scott, Spencer, Sumner, Thayer, and Wilson—23.

NAYS—Messrs. Bayard, Boreman, Carpenter, Casserly, Cole, Conkling, Corbett, Cragin, Edmunds, Fowler, Hamilton, Norton, Nye, Osborn, Saulsbury, Sawyer, Stewart, Stockton, Thurman, Trumbull, Vickers, Warner, Willey, and Williams—24.

ABSENT—Messrs. Abbott, Cameron, Cattell, Davis, Drake, Ferry, Kellogg, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Pool, Ramsey, Ross, Sherman, Sprague, Lipton, and Yates—13.

So the Senate refused to adjourn.

Mr. CASSERLY. I was observing to the Senate that the circumstance that the remarks of my friend from Wisconsin upon the California act had escaped my attention, was of very little consequence in view of the extremely clear, strong, and cogent statement of the law in respect to the act made by the Senator from New York, [Mr. CONKLING.]

I rise now not to engage generally in the

debate but simply to show that those "express conditions," so far from sustaining the "fundamental conditions" sought to be put upon Virginia, supply a very strong argument against them. I shall confine myself to that as closely as possible.

The prohibitions which are either express or implied in the California act resolve themselves into three classes. The first class is composed of provisions relating to the public lands, forbidding the State either to impair in any way the title of the United States to those lands or to tax them. The second class provides that the property of non-resident proprietors who are citizens of the United States—and I ask the Senator from Wisconsin to observe the language, the property of non-resident proprietors "who are citizens of the United States"—shall not be taxed more heavily than that of resident proprietors. The last class is the prohibition which is necessarily implied in the provision that the navigable waters in the State shall be forever free as well to citizens of other States as to citizens of the State of California, and exempt from any tax, toll, or impost.

There is no doubt in my judgment, and I think there will not be in the judgment of any gentleman who will take the pains to examine the subject, that each of these three classes of prohibitions is distinctly within the constitutional power of Congress. There is not one of these prohibitions which it would not have been entirely competent for the Congress of the United States to impose on California after her admission as well as before. This view furnishes a clear and satisfactory test that the position which I am now endeavoring to enforce must be correct. They add nothing to the power of the Congress of the United States; they take away nothing from the power or the equal dignity of the State of California as a member of the Union, the power and dignity expressly secured to her by the language of the first section, by which she "is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever."

It seems to me, therefore, with great deference to the Senator from Wisconsin, that his argument is fallacious, that because Congress has exercised those powers with respect to California which are embodied in the prohibitions in the act of admission, Congress may exercise the powers which it is claimed here it should exercise in this act in respect to the State of Virginia. It is fallacious for the very obvious reason that in the California case Congress was exercising powers clearly within the Constitution; whereas in this Virginia case it is not pretended that there is anywhere a grant of power to Congress to put such provisions into an act respecting the State of Virginia as "fundamental conditions" of her admission to, or her



existence in, or her right to stay in the Union, whichever you may please to term it.

The Senator from Wisconsin asked with considerable force, certainly with a great deal of plausibility, why insert these prohibitions, why insist upon these express provisions of admission unless without them California were able to do everything which it is by these provisions forbidden to do? I intend to state the objection on the part of the Senator from Wisconsin as fully as I am able, because I regard that as the fair spirit in which a discussion of this kind should be conducted. Having so stated his objection, I will endeavor to answer it as fully.

I take the first class of these prohibitions, which is a prohibition against the State of California doing any act impairing the primary title of the United States to its public lands or levying any tax or assessment upon them. I have said that this, like the other prohibitions, was one within the constitutional power of Congress. Why? Because Congress is expressly vested by the Constitution with the power to "make all needful rules and regulations concerning the territory or other property belonging to the United States." But that is a power which, like some other powers in the Constitution, Congress is not obliged to exercise, and, like many powers in the Constitution, it is not self-executing. Why did Congress in the admission of California exercise this power? The reason is obvious: California contained a great body of valuable mineral and other public lands, which had been acquired by the blood and treasure of the whole Union. It was fit that there should be no question between the Union and the new State as to the title or the status of those lands. Had Congress refrained from making a rule or regulation about these public lands there would be no inhibition against the State of California dealing with them. There might be a possible question raised as to her right. Congress, therefore, in the exercise of a clear power granted by the Constitution, forbids the State of California in this act to interfere with the public lands, either as to their title or by taxing them. That is to say, Congress in this act makes a rule and a regulation respecting public property. Had Congress the constitutional power? That will hardly be disputed. Congress has power to pass such an act to-day respecting the public lands in California, and not a great while ago it did pass an act against trespass on timbered lands of the United States in that State.

Next is the prohibition that non-resident proprietors who are citizens shall not be discriminated against in regard to taxation on their property. That, also, is in pursuance of a provision of the Constitution, that the citizens of one State shall "be entitled to all privileges and immunities of citizens in the several States." And to-day, if the State of California

should discriminate as to taxation against a non-resident proprietor who is a citizen of Massachusetts, Congress might pass an act enabling that non-resident proprietor to test the question in the courts.

Mr. CARPENTER. Will the Senator allow me to ask him a question?

Mr. CASSERLY. Certainly.

Mr. CARPENTER. Would such an act be necessary? Would not such a provision of the legislation of California be void under the Constitution of the United States?

Mr. CASSERLY. Without any doubt; but Congress, desiring to make the thing perfectly plain and facilitate the remedy of that non-resident proprietor, who is a citizen—the gentleman will remark the Constitution deals with citizens; this protective prohibition is for the benefit of citizens who are non-residents—might well pass such a statute under a clear power in the Constitution.

This brings me to the last of these prohibitions, which is that "all the navigable waters within the said State shall be common highways and forever free, as well to the inhabitants of said State as to the citizens of the United States, without any tax, impost, or duty therefor." I suppose there can be no doubt that this prohibition is within the power of Congress "to regulate commerce." Upon this point there is a special answer to the remarks made by the Senator from Wisconsin [Mr. Howe] when he asks why did Congress make these prohibitions? The power to regulate commerce happens to be one of those powers which in some respects may be exercised by the States when Congress does not exercise it. A well-known instance is the making of pilotage laws for the different harbors of the United States. In the absence of legislation by Congress, or with its permission, the States have legislated, and always, I believe, with the entire concurrence of the courts whenever the question was raised.

If in the admission of California Congress had designed that the State of California should not meddle with that branch of the power, Congress might have asserted its power as it has upon the subject of the navigable waters, and might have enacted a prohibition against California legislating on the subject of pilots or pilotage at all. So, sir, in the same spirit and for the same general purpose, to leave no doubt whatever on the subject and to exercise the power itself by means within its constitutional competency, Congress has forbidden the State of California to deprive the citizens of the other States of the Union of their rights in the navigable waters within that State, lest it might be said, if there were not such a provision, that the State of California might attempt something of the kind. But this provision adds nothing to the power of Congress. Congress may to-day impose such a regulation of

commerce on New York in respect of her navigable waters; by which I understand such waters, salt or fresh, as may be means of intercourse between States or with foreign countries. In addition, it should be remembered that in legislating on these great powers of Government an express prohibition does not necessarily or even generally imply the power to do the act prohibited, in the absence of the prohibition. The Federal Constitution has several express prohibitions on the States which must have been implied without them. The express prohibition of State imposts or duties on imports or exports is one instance; though both on principle and authority the grant to Congress of the power to regulate commerce would by its own nature deny any power in the States to lay imposts or duties upon commerce.

For all these reasons, and to sum up, the provisions in the act for the admission of California are constitutional provisions. They are provisions within the clear powers of Congress; so clear, I repeat, that there was no positive necessity for inserting them in the act of admission, for they could just as well have been enacted by Congress at any time after California was admitted. But they were made "express conditions" in the act of admission in order to settle the question at once, in order to make the needful rules and regulations on all those subjects, and to preserve that peace and good will and those friendly relations between the State of California and the other States of the Union and the Federal Government which always should exist. It seems to me, if my friend from Wisconsin will allow me to say so, that the answer to his question why they were put into the act is just as clear and as convincing as all the other views of this case which I endeavor to sustain.

I do not, of course, agree that the provisions which are sought to be put upon the State of Virginia have any warrant whatever in the Constitution. No gentleman has claimed that they have. I have not understood any Senator to lay much stress even on the idea that in any way they grow out of the new, indefinite, and most extraordinary powers claimed under the

general doctrine of reconstruction. They have been attempted to be justified really upon precedents drawn from the action of Congress in respect to other States. That view may be dismissed with the general observation that all those precedents will be found to resolve themselves into two classes: first, provisions which respected property and were in the nature of a compact made between the State as it existed before its admission and the United States—for there can be a State before admission as well as afterward. In the State of California our whole system of State government was in complete operation under a full body of laws nearly a year before the State was a State of the Union.

Mr. MORTON. Will the Senator from California yield to a motion to adjourn?

Mr. CASSERLY. I am nearly through.

I say, sir, they were either in these terms a compact, generally as to property—indeed I think of no case where the compact was not one which respected property, and was in the nature of a contract as to that property between the State and the United States before the State was admitted to the Union, and which, of course, bound the State afterward—or they were provisions made in pursuance of the clear constitutional powers of Congress to legislate upon certain subjects of great public concern between the State and the citizens of other States and the General Government, and which, because they were subjects of great public concern, out of which disorders might grow as well in the State itself as in its relations with the General Government and the other States, it was well and wise should be disposed of by express legislation on the part of Congress at the hour of admitting the State into the Union. That is all there is of it; and there is no warrant in either class of cases for the legislation which is attempted here, and of which I must say, as was said once in a memorable case elsewhere, that if it shall unfortunately become a law it will be a law whose validity is much more than doubtful, and which, as it will "go forth without authority, will come back without respect."



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The Land and Labor Questions.

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The Public Lands for the People—Eight Hours for a Day's Work.

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REMARKS

OF

EUGENE CASSERLY,

OF CALIFORNIA,

DELIVERED

IN THE SENATE OF THE UNITED STATES,

FEBRUARY 19 AND MARCH 2, 1870.

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LETTER TO THE MECHANICS' STATE COUNCIL OF CALIFORNIA,  
FEBRUARY 22, 1870.

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WASHINGTON:  
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1870.





## The Land Question—Aid to Railroads.

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On February 19, 1870, bill No. 336, granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville, Oregon, was taken up in the Senate of the United States. The pending question was on the motion of Mr. THURMAN, of Ohio, to recommit the bill, with instructions to strike out all that relates to grants of land, except as to the right of way.

Mr. THURMAN addressed the Senate at considerable length in support of his motion and against the policy of vesting in railroad corporations large masses of the public lands.

Mr. STEWART, of Nevada, replied, speaking in favor of the policy. After discussing the public land system, and insisting on the practice of granting the public lands to railroads as proper to be continued, a debate took place, the character of which will appear from the following extracts:

Mr. STEWART. Now, gentlemen talk about the corporations holding these lands. Why, sir, the railroad company to which such a grant is made must live, and hence it must sell the lands, and sell them to settlers. It is not a corporation to hold land. The analogies of corporations grasping lands do not hold in this case. The railroad would be destroyed if the company did not sell its land. The necessity for business, that the road may live, compels them to sell their land, and there has been no complaint on that score that amounts to anything. The people have been satisfied. The railroads have to sell the land. One half of it is already distributed and secured to pre-emption and homestead settlers, drawn out of the market, and taken in that way.

Mr. CASSERLY. My friend, the Senator from Nevada, will pardon me. As he seems to

have examined this subject, I should be glad to know from him what proportion of the large land grants made to the Central Pacific and Union Pacific railroads have passed into private ownership, that is, have passed into the hands of purchasers from those railroad companies?

Mr. STEWART. I believe the Senator has traveled over that country, and I should like to ask him what proportion of it will ever fall into the hands of anybody to use it?

Mr. CASSERLY. That subject I shall discuss at some other time. The question I ask the Senator now is for the purpose of testing the soundness of the assertion he has just made, that by making these large grants to railroad companies we put them in a position where the necessities of the companies compel them to dispose of the land rapidly. What I want to ask is, whether the Senator is aware that any considerable portion of the lands of the Central Pacific Railroad Company, for instance, have been sold by that company up to this date?

Mr. STEWART. I am aware of this, and the world knows it, that there has been ten times as much sold and occupied as would have been occupied without the road; I do not know the amount the company have sold; I have not examined their books; but not an acre of it would have been sold without the road, and the only possibility of disposing of it was by the making of the road. It could not be util-

ized by man without a road. Why preserve those lands for the Apache Indians? Why plead for barbarism? Why not plead for civilization? Why talk about the American people being robbed and the world being robbed of these lands when the energy of this nation is attempting to open up the continent? The lands on the lines of the Central Pacific and Union Pacific railroads were a waste without the road; but there are some good lands on these lines, and by means of a road a great quantity of land will be utilized, mines will be developed, and the country will progress; but without a road it was all reserved for desolation.

Mr. CASSERLY. I would say to the Senator that my impression is that the companies are still holding nearly the entire amount of lands granted to them. If the Senator from Nevada is of the contrary opinion I should be glad to hear it. I refer especially to the Central Pacific Railroad Company, because from the fact of that company being a California corporation I suppose he and I know more about it than we do about other companies.

Mr. STEWART. I appeal to anybody who has traveled over the road to say whether land on the line of that railroad would be worth a cent without the road. In my State there was only one person on the line of the road from the Truckee river to Salt Lake when that road was started from the Truckee river, after crossing the mountains. Two years ago there was but a single inhabitant, and now I suppose there are fifteen or twenty thousand inhabitants right along the line of the road taking up farms.

If we would progress we must go on and develop this continent. It has been the policy of the obstructionists of all ages, it has been the policy of the anti-progressionists, to oppose all improvements, to oppose all progress, to reserve this world for desolation and barbarism. Modern science, modern energy, under the lead of the free institutions of the United States, will do something with that desert between here and California which is so much depreciated. It has unbounded wealth in it. Its mineral resources surpass comprehension. There is no time for faint-heartedness. We will make that portion of the land teem with wealth and make it a blessing to mankind. This is our destiny. Why talk about corpor-

ations and monopolies? This system is the salvation of the country. I have great faith in its workings in different States; but there is no time to go into detail now. I have already occupied too much time.

Mr. CASSERLY. Before the Senator sits down, as he seems to be addressing himself to me in his enthusiastic denunciations of obstruction and obstructionists—

Mr. STEWART. Not at all.

Mr. CASSERLY. Then, if the Senator refers to the Senator from Ohio, who is not here, I desire for him, in his absence, to say that I am unable to see the application of these eloquent philippics. Nobody I suppose is in favor of obstructing the march of progress either by railroads or other means.

Mr. STEWART. I have simply this to say—

Mr. CASSERLY. Allow me now one moment. As I do not intend to make any speech on the subject now before the Senate I desire, with the Senator's permission, to say a word further. I understand the objection of the Senator from Ohio to be not to aiding railroads, nor to railroads in themselves, but to the policy which has tied up immense tracts of the lands of the country in the hands of corporations. I am sure the Senator from Nevada does not require from me any disclaimer of hostility to railways or to that form of American enterprise which has done so much for our coast. Certainly I have no feeling of hostility to the company of whose large landed possessions I just now spoke, the Central Pacific Railroad Company. I simply desired to draw the attention of the Senator to the facts in reply to his argument that granting lands to railroads tends to distribute them into private ownership more rapidly than in any other way. In answer to that argument I sought to draw his attention to the fact that that has not proved to be the case in reference to one of the greatest of the Pacific railways, that one which is in our own State.

Mr. STEWART. I understood the Senator from Ohio to oppose the system established by this Government of granting aid to construct railroads, and I understand that to be the position of the Senator from California. I undertake to say that that is unsound, it is unstates-

manlike, it is a step backward. I do not desire to accuse those gentlemen of being obstructionists, but I can speak of that argument as behind the age. It is a plea for desolation; it is a plea for the abandonment of the great West; it is a plea for leaving that country to savages; it is a plea against the manufactures of the East; it is a plea against the labor of Europe; it is a plea against the progress of civilization. We will civilize that country; we will develop its resources; we will make highways over it for men. I do not intend to indulge in any philippic or to question any person's motives; but I say the position that this is a bad policy is unsound, and has been condemned for twenty years by the repeated votes of both Houses of Congress upon mature discussion.

Mr. CASSERLY. As I have said, it is not my purpose to engage generally in the debate upon this bill. I rise simply to reply to the closing remarks of the Senator from Nevada, [Mr. STEWART.]

That Senator declared that he understood my position on the subject of railroads; that he was well aware I was opposed to granting aid to railroads. Let me say, that is one way of putting it. But as the Senator was perfectly well aware, for I have often conferred with him on the subject, that I am not opposed to granting aid to railroads in proper cases, and never have been, he must know that I am not against aid to railroads except in the very way in which he has put it. What I have always said, and what I now say, is that while I am in favor of aid to railroads in the new States, yet in view of the immense tracts of land granted away by the United States to railroad companies, it is time we should pause; and that the period has arrived when this Government, if it shall determine to grant aid to railroads, shall do it in some other mode than by vesting its lands in great tracts in railroad corporations.

Upon this question I stand with my State of California. My place is where the resolutions of instruction passed by the Legislature of that State with unprecedented unanimity have planted the State. This is the position of California, and it is mine. It is taken in the joint resolution of the California Legislature, printed in Document No. 21 of the Senate, of this session. After referring to the withdrawal of

a large body of lands for the purposes of the Southern Pacific railroad, and to the decision of the Secretary of the Interior setting aside that withdrawal, the Legislature goes on to declare—

"Congress is earnestly requested to order the said land, now claimed by the Southern Pacific Railroad Company, to be restored as soon as practicable to settlement by preemption; and that while the granting of aid for the construction of railroads and other internal improvements is earnestly advocated, Congress is requested not to make any more grants of lands in large tracts in this State for any purpose, but to direct the disposition of said lands under the preemption and homestead laws to actual settlers, and to grant in lieu thereof, in aid of the construction of railroads and other internal improvements, a fair share of the proceeds of the sale of such lands."

That is the position of California. Without any reference to party divisions, those are the instructions of the Legislature of the State, and my position is as defined by those instructions. If any Senator can find in that declaration of California, which is also mine, any disposition to obstruct or to hinder the railroad development of the Pacific coast, he can find in it more than I discover.

I do condemn most unqualifiedly a continuance of the policy of Congress for the last ten years in dealing with the public domain. I think the day will come when Senators will find it extremely difficult to justify to the country the system of vesting those lands in large masses in private corporations. That policy has given to four railroad corporations within the last six or eight years the gigantic amount of one hundred and twenty-four million acres of land. I refer to the Union Pacific, the Central Pacific, the Northern Pacific, and the Atlantic and Pacific railroads. They own by grants from Congress one hundred and twenty-four million acres of land. Do gentlemen know how much land that is? In all France there are but a few million more acres than that great amount; in all Germany, with her swarming millions, not much more. There are four States of this Union, no inconsiderable States either—the States of New York, Ohio, Pennsylvania, and Virginia—which taken together contain but a few thousand acres more than was vested by Congress in those four railroad corporations. There is nothing like it in the history of the world. The objection now is not to aiding railroads, but it is to the continuance of this system of lavishing on them the public



domain by millions on millions of acres. Yet gentlemen say that such a policy is one of progress and development. They insist upon it, and demand its continuance. They may one day awaken to the reality that they have put a master upon the back of the people of this country whom it will be harder to take off than it was to put on.

These great landed monopolies are the object of alarm to those whom an eminent citizen used to call the plain people of the country; an object of alarm particularly to the working people of the United States, who, with an intuition that is finer and truer than all your ratiocination, all your philosophy, discern that there is imminent danger in the policy of Congress of granting to these private corporations vast tracts of land, equal almost to half a continent, equal to half a dozen of your largest States, and thereby investing them with the overshadowing power which the possession of the land gives in a free country. Why in a free country? Because a free country cannot exist without free land, and our institutions have to rest, if they rest at all, on a great body of independent freeholders. What becomes of them if this policy is pursued? Senators say because the grants of land to railroads have been beneficial in the past they are to be continued in the future; because we have given away to railroads one hundred and eighty-two million acres since 1850—I speak by the record—the same policy must be pursued hereafter. To this I say, no. It does not follow because railroad companies have contributed to develop the material resources of this country that they should become the owners and hence the rulers of the country.

The railroad is a great civilizer, it is said; but I never have understood in what way it added very materially to the moral forces of the State, which are the real strength of the Republic. I never have joined and I do not now join in any outcry against corporations as such; but I am equally far from concurring in the extravagant eulogies of them to which we have been treated to-day, and which must have forced a smile from every dispassionate listener. I am neither the assailant of corporations as such, nor their champion. They are what they are, neither more nor less.

Now, what is it that the Senators on the other

side say? They insist that the present hour must alone be regarded, and that to do this the public domain must be given away to corporations as rapidly as possible. In my judgment that is a spendthrift idea, a system of waste, that violates the true policy of administering the public lands. The Government of the United States holds these lands in trust; a sacred trust to be executed by it, not abandoned to private corporations. For whom and for what is this trust? Is it for us of to-day, and us only? Is it merely for the progress and development of to-day? No, sir; it is not for to-day alone, but for to-day and the many days that are hereafter. It is not for us only; but for the race of free people that are to possess this continent by countless millions forever. These lands are their inheritance, the field and the security of their civilization and their liberties—an inheritance to be husbanded, not to be squandered.

I beg Senators in dealing with this subject to deal with it with some reference to the great interests concerned, to the vital needs of the American people in the long future; with some reference to the feelings, wishes, and apprehensions of the great body of the people. It would ill become the State of California to reject an agency which has had so powerful a part in her development. Her people understand, however, what the dangers are that menace them from the continuance of the policy hitherto pursued by Congress. In that spirit, friendly to railroad enterprises, willing they should be aided by the Government, desiring they should be aided in every proper case, they simply ask Congress to change the practice of vesting the lands of the country in great masses, by States and empires, by title in these companies.

Is there anything unjust or unwise in that? Is there anything in it that should be met here with denunciations and cries of obstruction to progress? Sir, the man who so speaks of the people of California does great injustice to the intelligent, enterprising, progressive men of that State, who, without distinction of party, have united in a declaration that railroads should be aided, but without vesting in them vast tracts of the public domain. Is there anything wrong in this policy? I say let it be tried once before

it is denounced by Senators as impracticable. As for me, that is the platform made by the State which sends me here, and I mean to stand upon it, even if I stand alone.

As to the bill now before the Senate, I do not say that I shall vote against it. It is in many respects an improvement on the old system. I shall be governed in my vote by what shall occur in the progress of the debate, and the effect of it upon my judgment.

The motion to recommit was rejected.

Mr. VICKERS. I move an amendment, to insert at the end of the fourth section the following :

And that no mortgage that may be given by the said company shall operate to prevent the sale of any lands affected by this act to actual settlers; and any violation of this condition shall work a forfeiture of all lands which may remain unsold to actual settlers.

In the fourth section the grant is made expressly on condition that the lands shall be sold to actual settlers and no other persons. The amendment is only to secure the performance of that condition, solely for that purpose.

Mr. WILLIAMS. I hope the Senate will vote it down. It complicates and makes doubtful the meaning of the section.

Mr. CASSERLY. What security has the Government that this important provision in the bill will be complied with? I respectfully ask the Senator from Oregon—who I know will understand that my query proceeds from a desire to carry out what is the distinguishing feature of this bill—to state in what way that clause of the bill is to be enforced which provides for confining the sales by the company of this land to settlers. Suppose they do not sell to settlers?

Mr. WILLIAMS. I suppose this law has as much effect as any other law in reference to public lands. There is no law in reference to the public lands of the United States that may not be violated, and the remedy is in the hands of the Department.

Mr. VICKERS. I have modified the amendment to meet the views of the Senator from Vermont, so as to read:

And no mortgage that may be given by the said company shall operate to prevent the sale of any lands affected by this act to actual settlers; and any violation of this condition shall work a forfeiture of all the lands which may remain unsold.

Mr. WILLIAMS. I hope that will not be

adopted. The object seems to be, notwithstanding it is proposed to grant this land to this company, to make it as worthless as possible, in the hands of the company, so as to prevent the construction of a railroad.

Mr. VICKERS. If it is the design of the company to act in good faith toward the Government I can see no objection to this provision. The grant is made expressly upon condition that the lands are to be sold to actual settlers. I do not see what a mortgage is to operate upon except it be upon the land; and in order to prevent a mortgage of the land itself so as to interfere with the rights of settlers I have offered this amendment to make the matter plain and explicit. That is my only desire, and not to throw a difficulty in the way, for such is not my purpose.

Mr. CASSERLY. I am surprised that the Senator from Oregon should impute motives to any Senator. I suppose this bill is like any other bill here, to be amended or opposed in any way that is within the rules of order in this body, according to the conscience of each member of the Senate; and I presume one Senator has no more rights than another here. When the Senator from Oregon imputes motives to a Senator on this side of the Chamber in reference to any amendment he may move he ought to reflect whether motives may not be imputed with much better foundation from this side.

What is the theory of this bill? Its theory and its distinguishing feature, as we have understood all along, is this: that notwithstanding the grant of this aid to this railroad company the settlement of the lands by actual settlers shall proceed as though the grant had not been made. If that is not the theory of this bill I have not understood it, and the Senator from Oregon will correct me if I am wrong. That being the theory of this bill, I ask him, and I ask other Senators, what valid objection there can be to making that plain and certain; what valid reason he can give in opposition to an amendment the object of which is to carry out the declared theory of his bill and to assure that it shall not be disregarded or violated by the company?

The object of the Senator from Maryland, by his amendment, is to provide that in case



the company shall give a mortgage upon this road for any purpose, notwithstanding the mortgage the right of the settler shall continue, as the theory of this act is that it must continue, namely, as free to enter and acquire title to these lands as though the act had not been passed. I am sorry the Senator from Oregon should deem it his duty, in replying to an amendment of that kind, to assume that any one on this side has any object except that which is declared, namely, to advance the public good in reference to this bill by such amendments as seem most conducive to that end.

Mr. WILLIAMS. I disclaim any intention of imputing any motives to anybody except opposition to the bill, and I suppose that is manifest enough.

Mr. VICKERS. If this company were to execute a mortgage upon these lands, and that mortgage should be foreclosed and the lands sold by a trustee, what would become of the rights of actual settlers? It is only to avoid what would follow as the result of an event of that kind that I have offered this amendment.

The amendment was rejected.

Mr. VICKERS. I offer another amendment, to insert after the word "company," in line ten of section five, the words "on the road, depots, stations, side-tracks, and wood-yards," so as to confine the mortgage to the road and its appurtenances, and not allow it to extend to the lands.

Mr. WILLIAMS. I do not care anything about that. If that will be any satisfaction to the Senator he can have it that way. The bill means that now.

The amendment was agreed to.

Mr. CASSERLY. In my observations a little while ago I stated that in a certain contingency I might vote for this bill. I spoke under the impression which I then had of the character of the bill. That impression was that the bill granted nothing but the proceeds of the sales of lands; that it was not a bill to vest title in the railroad company. As I conceive the vesting of title in a railroad company not to be at all essential in the object of aiding the company to build the road, and to be productive of very great evils, as I have stated, and to be part of a pernicious system, I shall be obliged to vote against the bill. Had the

bill been as I understood it before I should have been willing to vote for it.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading; and was read the third time.

Mr. THURMAN. On the passage of the bill I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 34, nays 7; as follows:

YEAS—Messrs. Brownlow, Buckingham, Cole, Edmunds, Gilbert, Hamlin, Harlan, Howard, Howe, Howell, Kellogg, McDonald, Nye, Osborn, Patterson, Pomeroy, Pool, Ramsey, Rice, Ross, Sawyer, Schurz, Scott, Sherman, Spencer, Stewart, Sumner, Thayer, Tipton, Warner, Wiley, Williams, Wilson, and Yates—34.

NAYS—Messrs. Casserly, Davis, McCreery, Saulsbury, Stockton, Thurman, and Vickers—7.

ABSENT—Messrs. Abbott, Anthony, Bayard, Boreman, Cameron, Carpenter, Cattell, Chandler, Conkling, Corbett, Cragin, Drake, Fenton, Ferry, Fowler, Hamilton, Harris, Johnston, Lewis, Morrill of Maine, Morrill of Vermont, Morton, Norton, Pratt, Robertson, Sprague, and Trumbull—27.

So the bill was passed.

On March 2, 1870, the Senate had under discussion Senate joint resolution No. 121, giving to the Northern Pacific Railroad Company the right to the alternate sections through a breadth of ten miles on each side of its road and branches, for the purpose of supplying alleged deficiencies in the original grant, which was for 47,000,000 acres.

The pending question was on the motion of the Senator from Iowa [Mr. HARLAN] to strike from the bill the following words:

"And in the event of there not being in any State or Territory in which said main line or branch may be located, at the time of the final location thereof, the amount of lands per mile granted by Congress to said company, within the limits prescribed by its charter, then said company shall be entitled, under the directions of the Secretary of the Interior, to receive so many sections of land belonging to the United States, and designated by odd numbers, in such State or Territory, within ten miles on each side of said road beyond the limits prescribed in said charter, as will make up such deficiency on said main line or branch."

Mr. WILLIAMS, of Oregon, and Mr. CORBETT, of Oregon, having spoken against the amendment—

Mr. CASSERLY said: Mr. President, I deem it rather a misfortune that this measure, so important as it obviously is, should be taken up during the morning hour of the Senate. In rising to speak upon it I for one labor under the feeling that it will be nearly impossible at this particular time to attract the attention of any considerable number of Senators to the subject.

The general merit of this enterprise of the



Northern Pacific railroad will not be denied by any, certainly not by me. I regard a northern railroad across the continent as in some sense a necessary complement of the central railroad already built and in operation. I should regret by any act of mine to interpose any needless obstacle in the way of the completion of a northern or of a southern railroad. In my judgment, the three railroads are essential to the proper development of the whole United States, not only west, but east of the Rocky mountains; essential also to a close connection, politically and morally, between the different parts of the Union. I shall be ready at all times, therefore, to vote for any reasonable aid to the Northern Pacific railroad, as well as the Southern Pacific railroad, upon whatever route in either case shall commend itself to the judgment of Congress as upon the whole the best. But certainly, sir, there ought to be some method and some measure in the granting of aid by Congress, especially when that aid takes the form of lands. I have already expressed my strong objection to tying up vast tracts of the public domain in the hands of railroad corporations or of any private corporations whatever. The system is a mortmain, more evil in its nature than that which was struck down in the early days of the common law, and far more wide-reaching in its operations.

So far as the particular measure in hand is concerned, a few ideas have occurred to me. I propose to state them in as few words. I did not expect to speak at any length if at all on this bill, because I understood that at least one other gentleman on this side of the Chamber intended to discuss it fully from the same view with myself.

The Northern Pacific Railroad Company was incorporated by act of Congress in 1864. It has received from Congress land grants which it is calculated in the Land Office will vest in that company the amount of forty-seven million acres. This is the very largest grant that has ever been made to any company in the United States. Forty-seven million acres of the public land! An empire in itself, I beg gentlemen to observe. More than that, it is the very richest land grant by a large percentage which any railroad company has been for-

tunate enough to obtain. In proportion to its whole extent, vast as that is, it contains more good arable land than any other large railroad grant except the grant to the Illinois Central railroad in 1850. The latter land grant, running through the heart of that fine State, contains so much land of the finest quality, that, as was stated by the Senator from Iowa [Mr. HOWELL] yesterday in his valuable and interesting speech, that company is to-day the holder of the larger part of the land—two thirds of the original grant, I am reminded by the Senator from Ohio at my side, [Mr. THURMAN.] For twenty years, I ask Senators to observe, has that immense tract of fertile land in the heart of Illinois been locked up in the hands of a railroad corporation, held by it as its private property at whatever prices can be obtained from the necessities or the sanguine expectations of purchasers—prices ranging, I have understood, up to fifty dollars an acre, and even more.

Mr. STEWART. I should like to inquire of the Senator from California how much of the land grant to the Northern Pacific railroad is to-day open to settlement practically? I ask if the savages and the desert and the mountain barriers are not as grasping monopolies as we have upon this continent, and if they have not thus far monopolized a majority of the area of the whole hemisphere?

Mr. CASSERLY. Scarcely any one objects to be interrupted upon a question of fact. I never object; and I shall not object even, being a new member, and requiring, perhaps, that courtesy as often as any one, to being interrupted for the purpose of interjecting a little or a long speech. But I submit to my friend from Nevada that after an honorable member has made the same point three or four times on the same subject, it is stretching senatorial courtesy a little too far to ask to make it for the fifth time while another Senator is entitled to the floor. The Senator from Nevada, to whom I am always willing to listen, and generally listen with interest and instruction, has pressed upon me the same argument in about the same words so often within a few days that I think we all understand his view and the force of it without any further repetition.

Mr. STEWART. The Senator will allow me to say that I did not intend any discourtesy,

but I did want to call to his mind the position he occupies in claiming that the Illinois Central Railroad Company monopolized a large amount of land, and presenting as an inference from that argument the fact that here are forty-seven million acres of land which would be open to settlement but for the railroad grant; whereas he and I know that that land is not only not open to settlement, but not accessible to settlers, and consequently it is monopolized by the Indians, by mountains and deserts; and I should like to ask him if he prefers the monopoly of inaccessible regions, the monopoly of desolation, the monopoly of barbarism, to the monopoly of railroads?

Mr. CASSERLY. I answered the same argument from the Senator when he first took occasion to press it on my attention in the debate on a railroad bill a few days ago. I can scarcely be expected to repeat now what I said then. As to the Senator's dilemma, let me say that it is no dilemma whatever. The Senator knows, for I have so declared to him over and over, that I am not opposed to building this railroad or any other. Now he asks me to choose between the monopoly of the savage and the monopoly of the railroad. I decline to be compelled to accept such a dilemma, or to choose between either monopoly. I am against either monopoly. I know of no monopoly that any Senator in this Chamber should favor, except the right of the actual settlers to monopolize these lands for themselves as a class, in such quantities as the Government shall determine. That is the only monopoly I know of which should rightfully exist in reference to these lands.

The Senator's position appears to be that because railroads are valuable agents in developing the country we should be in a hurry to bestow upon them whatever amount of aid they demand and in whatever shape they demand it. If they insist upon aid in land, he insists that we must lavish land upon them by States and empires in territorial extent. As to what he says of the character of the country through which this road passes, and the quality of the land granted, I shall have a word to say presently, and upon authority which will be regarded as sufficiently good by the Senator from Nevada himself.

Awhile ago I asserted that except the grant to the Illinois Central railroad, which was but for two and a half millions, this is the most valuable large grant of land that has ever been made to a railroad company in the United States. I ask the Clerk to read from the report of the Commissioner of the General Land Office, made at this session, the passages marked at pages 74 and 75.

The Chief Clerk read as follows:

"The Northern Pacific presents as one of its strong claims to public attention its comparatively low summit levels. It proposes to cross the Cascade mountains in Washington Territory by the Snoqualmie Pass, three thousand feet above sea level, and the highest range of the Rocky mountains, by Cadotte's Pass, whose elevation of six thousand one hundred and sixty-seven feet may be reduced to five thousand three hundred and thirty-seven feet by a tunnel two and one eighth miles long. Blodget's charts show that the respective points where the Northern Pacific and the Union Pacific pass the main range of the Rocky mountains are on nearly the same winter isothermal parallel of twenty degrees Fahrenheit, with about the same winter temperature on the adjacent plains and foot-hills, and with a summit level at Cadotte's Pass three thousand feet lower than that at Evan's Pass.

"The Northern Pacific offers a pretty safeguard against these formidable obstructions from snow which the more southern route has already experienced. The Northern Pacific route claims to be the shortest and most central from the tributary waters of the Atlantic and Pacific oceans. Its main line, from Lake Superior to Puget sound, is seventeen hundred and seventy-five miles in length, being seventy miles shorter than the Union Pacific, and reaching two hundred miles further eastward."

"The Northern Pacific was incorporated by act of Congress approved July 2, 1864. Its subvention from the General Government consists of a grant of land, including twenty odd-numbered sections on each side of the line, or twenty-five thousand six hundred acres per mile. No loan of Government bonds has been promised for its construction. But the day of such extraordinary endowments is passed. Pacific railroad enterprise, however, is entering upon a self-sustaining stage, and it is believed that it will be able to stand upon its own basis, and that doubtless the Northern Pacific road will have become, within the next ten years, an accomplished fact. Should the Government decline further loans for railway construction an outlet will be closed for surplus capital, which will be compelled to seek other investments.

"The undeveloped resources of this company are attracting the attention of capitalists. Its landed subsidy is double that of the Union Pacific road. Comparatively a very small proportion of its line runs through an elevated region. Governor Stevens was of the opinion that not more than one fifth of the land from Red river to Puget sound is inarable, and that this is largely made up of mountains covered with valuable timber. It is evident that an immense agricultural area is here awaiting development. The great wheat-growing regions on the left bank of the upper Missouri promise speedy settlement upon the opening of an avenue for the transportation of their products to market. Each section of the road as it is completed will, from local traffic alone, find ample returns for its investment."

Mr. CASSERLY. The excited imagination of the Senator from Nevada has seen this immense tract of land through which this railroad



is to run, and of which the company is to be the owner for an indefinite period, as a wilderness of sand, of mountain, and of swamp, roamed over and controlled by bands of ferocious Indians. The calm matter of fact of the officer of the Government, admitted in this Chamber to be the best-informed person on this subject whom we know, puts to flight all the fancies of the Senator. He shows us in the first place that this is the largest land grant ever made to any railroad corporation in the United States, double that granted to the Union Pacific, which had to carry its road over a line of unusual difficulty up and over the Rocky mountains and across the wild and rugged basin between them and Salt Lake. In the next place, that the land is in the main of extraordinary value, four fifths of it arable, according to the report of Governor Stevens, who, I believe, went over this whole line of country at the time of the explorations for a Pacific railroad. On the other hand the road has great advantages in construction and in its business, as shown by the passages just read.

Under these circumstances the question I put to Senators is whether, after this road has had this unusual subsidy in lands well known for excellence and for value, they are prepared, upon a mere suggestion without proof that within the limits of the grant the company cannot obtain the whole quantity of land necessary, as is claimed, to build the road, to allow the company to extend its field of selection for the space of ten miles beyond its exterior line on either side? The Senator from Iowa who first spoke on this subject, [Mr. HARLAN,] stated that the grant as it stands gives the company one half the land out of a belt eighty miles wide, or forty miles on each side of the road. This bill gives it for twenty miles more, ten miles on each side, making in all a belt across the continent of one hundred miles wide and over seventeen hundred miles long, from Lake Superior to Puget sound. From end to end of this great belt you take forty-seven million acres and vest the title of it in the company! The mind fails almost to grasp the extent of such a grant, or the magnitude of the powers in the State which such a grant must give to the corporation endowed with it.

I shall not repeat at any length what I have before said; but the expostulations of the Senator from Nevada seem to make it necessary that I should state once more that I never was and am not now opposed to reasonable aid to the building of great railroads across the continent or elsewhere, the effect of which is to open up immense tracts of country, to bind the Union together, and to develop all intimate and wholesome relations between its different parts. In my judgment the true policy for this Government, during the period of these immense land grants to railroad corporations, would have been not to vest the lands in the companies, but to aid them out of the proceeds of the lands, or by a guarantee of the interest on their bonds. A Government which we are accustomed to account not so enlightened or progressive as our own—I mean the British Government—has within about the same period effected the building of four thousand miles of railway through the mountains and plains of India, against natural difficulties from climate, from soil, from the pestilential seasons, much greater than those of any American railroad, except, perhaps, the road across the isthmus of Panama. All this that Government has accomplished—that vast amount of railways against such difficulties—with a guarantee of five per cent. interest on bonds to the extent of £100,000,000 sterling, or \$500,000,000.

The British Government has great bodies of public lands in the Old World and the New. But it seems to comprehend the obvious truth that land is a peculiar kind of property not only in its necessity to man, but in the power which it gives to men over their fellow-beings. It is peculiar also in this, that of all kinds of property known to man, it is the only one which the wit of man cannot add to, let him contrive or toil as he will. He can make land more productive, and in that way he may increase its aggregate value; but on all the surface of the globe he cannot add one foot of earth to that which lay in the beams of the morning sun that first shone upon Adam in Paradise. Acting upon this idea that Government has preferred, and wisely as I maintain, to aid its great railroads in India by a guarantee of in-



terest upon their bonds. It has not bestowed upon them its lands. It has grown wise by the experience of England and Ireland, and has kept its public lands for its people. Money may be replaced; land cannot be. Land alone is that property which is essential to the maintenance of that class of freeholders in a country without which there can be no true prosperity or content. In this country the presence of such a class, and in great numbers, is essential to the development of all national strength and greatness, and to the efficient working and permanent existence of our free institutions.

I observed that this company makes no case for the relief asked in the bill. We have merely a suggestion that it is unable to obtain the quantities within the lines of the grant already made. What quantities?

Mr. HOWARD. The Senator will allow me to interrupt him. I do not wish to protract the debate, but he will see as clearly as the rest of us do, that if there be no necessity for making up these deficiencies, the deficiencies will not be made up. He will see at once that the extension called for by the joint resolution, if there be no deficiency, will amount to nothing, and there is no grant.

Mr. CASSERLY. That presents two questions for consideration, both of them important. One is whether the United States ever guarantied to this road or to any road, in making a land grant, that the road would obtain any particular quantity within the limits given. I believe that view has been discussed, though I heard him imperfectly, by the Senator from Kansas. If I understood that Senator aright, he took the proper ground on this subject; which is that the United States guaranties nothing in these grants, just as it guaranties nothing in a grant to a State, except that if the land is there, not disposed of or reserved, it vests in the grantee. It guaranties no more than this in a grant for the highest purpose nearly for which this Government makes a grant; that is, for the furtherance of education in the States. The States take every such grant for better or worse, for more or less. When the grant to this great railroad company was made everybody knew that in the onward movement of the populations of the country,

upon different lines of advance from East to West, from the Atlantic to the Pacific, the public lands were being taken up rapidly, the better lands first, of course. The company took its grant with that understanding. It seems to me that the claim of the company now, so far as it rests upon the assumption that Congress is bound to make good the deficiency, if any there be, within the lines given, is an unfounded claim, because the assumption itself is without any ground to sustain it.

In the next place, what security is there in the bill? What guard is thrown about this measure? Is there any safety that this road will not ultimately obtain, besides the forty-seven millions within the first grant, many millions more out of the new grant? I may be told that there is no probability that this corporation will do anything of the sort. But, sir, the theory of human law is that in cases of this kind every man and every set of men, and of course every corporation, requires to be held up within certain defined limits of power and liability. What is to prevent the company, if it should discover outside of the lines of the original grant twenty, thirty, or forty thousand acres of very desirable land, from having those lands preëmted; from having them taken up by actual settlers—actual for the moment, actual for the purposes of the operation? And in that way you are opening the way, you are furnishing an opportunity and almost an incentive to the company, by contrivance, under the very loose terms of this measure, to add several other millions of acres even to the forty-seven millions already granted to it by Congress.

I submit to Senators that when you are dealing with acres by the million and giving to a corporation a general right to take those millions out of a district of country seventeen hundred miles long by one hundred miles wide, upon the plea that it cannot find a certain quantity of land within certain lines of that district, there ought to be some guard, some security that a power so large, so discretionary, shall not be grossly abused. The history of great land grants, especially of floating grants, is full of warning against adopting a bill so loosely drawn as this is.

I regret, sir, to have troubled the Senate at so much length in the morning hour, but the measure before us is so important in itself, and as a precedent is so dangerous, that I have

felt compelled to state such objections as occurred to me. I hope the amendment of the Senator from Iowa [Mr. HARLAN] will prevail.

## EIGHT HOURS FOR A DAY'S WORK.

### LETTER OF EUGENE CASSERLY, OF CALIFORNIA,

*To General A. M. Winn, President of the Mechanics' State Council of California.*

The Mechanics' State Council of California having adopted a series of resolutions, (given below,) they were transmitted by their president, General A. M. Winn, to Mr. CASSERLY, with a request for a letter stating his views. This will be found following the resolutions:

Whereas the Mechanics' State Council and Trades' Association were organized for the purpose of improving the condition of the producers of our country, and having sought and obtained the passage of an eight-hour law by the State Legislature and the Congress of the United States, which the officers of the Government and contractors on public works are constantly attempting to evade; and whereas our object in securing the passage of the law was to establish the principle that eight hours' labor is enough for a day's work and that all public work should be done at that rate: Therefore,

*Resolved*, That we are not content with a law that does not absolutely require that all public work should be done at eight hours a day, without the chance of evasion.

2. That we wish the people to understand that our object is to establish the eight-hour system of labor throughout the whole of our country.

3. That we request our State Legislature to pass such an amendment to the present law as will carry out our views as herein expressed. That copies of this preamble and these resolutions be presented to his Excellency Governor Haight, Lieutenant Governor Holden, and our senators and representatives in the Legislature of this State.

4. That the Congress of the United States be, and is hereby, requested to pass an eight-hour law that will positively require that the public work shall be done at eight hours for a day's work, making it a penal offense for its officers and contractors to evade its provisions.

5. That General A. M. Winn, president of the Mechanics' State Council, and now at Washington, be requested to impart this information to our Senators

and Representatives in Congress, and to the President and Vice President of the United States, and that all laboring men and associations formed by them be requested to act with us in trying to secure the passage of laws to improve the condition of the toiling masses.

6. That labor associations of every kind, and in every portion of our country, be requested to recognize General A. M. Winn as our representative, and to render him such aid and information as may be necessary for the good of the cause.

S. N. GRUBB, *Acting President.*

W. D. DELANY, *Secretary.*

WASHINGTON, February 22, 1870.

DEAR SIR: I am indebted to you for the preamble and resolutions of the Mechanics' State Council of California in favor of establishing, by State and Federal legislation, eight hours as a legal day's labor on all public works.

I have read them with the attention they merit as the deliberate expression of the views of the mechanics of our State. I am glad to be able to say, that the general principles asserted have my concurrence, and I shall favor whatever provisions of law seem to me best calculated to carry them out.

In its material, but still more in its moral aspects the labor of the country is by far its most important interest. It is a universal truth that no society is well founded which does not rest on a sound organization of labor. It is equally true that no sound organization of labor is possible where the working-man is by any contrivance defrauded of his fair wages; that is, of his just share of the profits of his own labor. As little can it exist where, by low wages, high cost of living, or any other cause, he is forced to give so much of every day to toiling for a subsistence as to overtask him and leave him without leisure or inclination for the improvement of his mind, or for social intercourse, without which the working people of a country must, in the long run, become morally and physically a stunted and inferior race.



It is not enough that, as a money question, labor pays a living to employer and employed. Beyond that, the hours of labor must be so adjusted as to combine with a sufficient product of labor a healthy condition of body and mind of the workman. With practical unanimity and marked enthusiasm the mechanics of our own State have agreed upon eight hours as that limit of a day's work which, on the average, best unites these two results.

I had long been of the same opinion, not merely in the interests of labor but in those of society at large. These are common interests everywhere. But they are more thoroughly identified in our Democratic representative Government, where majorities sway the State politically, and in time socially also, and where the whole people are one body, substantially the same in its general moral qualities.

European society, fenced off into ranks and classes, may afford for generations to oppress and degrade its labor; though ultimately it, too, pays the penalty. American society dares not run a risk which, for it, is all the greater because under its simple democratic forms of life, its whole mass sympathizes so much more promptly in well or ill-being.

It is true that, during its brief period of practical application thus far, the eight-hour principle has not worked altogether smoothly—has encountered troubles. But are these difficulties any greater than those which attended the reduction of the day's work from twelve hours to ten, in our own time? They are really not so great, if we reflect that the reduction of the hours of labor is now going on at the same time with a rise of wages made necessary and proper by a greater rise of the cost of living, caused by heavy taxes and a general advance of prices. Whatever these difficulties are, or may be, I am confident they will shortly disappear before the self-adjusting forces of American society, aided by mutual good will and good sense between employer and employed.

Many men of undoubted sincerity and intelligence oppose the eight-hour system on the supposition that it will so diminish the whole products of labor as seriously to affect the business and wealth of the country. There is, I am sure, no just foundation for this idea. No such consequences, nor any of the other evil consequences now predicted by our opponents, followed permanently from any of the several reductions of the hours of a day's work which have been won by labor from capital from time to time in modern history.

The error is in taking a short view of a long question.

Though it were true that for one day's work a man cannot do as much in eight hours as in ten, what does that prove? Does it prove that the same thing is true of his day's work every working day for a year, for five years, for ten years, for his life?

We know it proves nothing of the kind; because we know that what a man can do in a single brief effort gives no rule for what the same man can do through a long period. We know that all continuous labor by the day has its daily limit, beyond

which it cannot be prolonged without a falling off in the ability of the workman and in the amount or quality of his work, or both.

This is a truth of science as well as of every day experience. Yet we see men who give to their horses the benefit of this saving truth, and yet ignore it in regard to their fellow-creatures, the working people, whose rights and interests are as unspeakably higher as a man is better than a horse.

It may be that at ten hours a day a mechanic can do more work for one day or for a while than he could at eight hours. He could do still more at twelve hours or at fourteen. But fix his day at eight hours, and the same man will do more work one year with another of his life, will live more years to do it, and will be always a brighter, happier, and better man.

This objection, therefore, so far as it is anything more than a mere theory, rests upon an experience of the eight-hour system, which is altogether too brief to warrant any such general conclusion.

In the next place, as another answer to the apprehensions of wealth and business diminished by the eight-hour law, we have only to remember how wonderfully within this generation of men the producing power of the country has been multiplied by the improved means of production furnished by machinery, by science, and by organization, and that in all probability it will be even more wonderfully multiplied in the future.

Another ground of opposition is that the workingman will spend the hours of leisure gained each day, not in improving his mind or in social intercourse, but in dissipation; and it is said that this is the result thus far. If such be the result, which I am not prepared to admit, it would prove nothing, except that the evil habits of the old system are not to be corrected in a day.

The benefits of the eight-hour reform are to come by degrees, most fully with the mechanics of the new and succeeding generations. Eight-hour laws give scope to the better moral elements of the workingman to develop themselves, but they cannot at once change his nature. No human laws can.

Other objections are urged, but they are of inferior weight, and do not require to be noticed in this letter, which has already grown to such a length.

The eight-hour rule is asked for by the great body of those who have the most direct interest in the subject and the best means of understanding it.

Besides this, it commends itself to my feelings and to my judgment, deliberately formed, as a great step gained in the improvement, moral and physical, of the workingman, and his elevation in the social scale. Both these it is the highest advantage and duty of the country to promote.

I welcome it also as a long advance toward that reorganization of the relations of capital and labor not far distant, when each will stand on an equal footing, and all conflicts will be merged in a common interest.

I say, then, let the eight-hour system have a fair trial, on a full scale, and for a sufficient time. Let



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it have such a trial from the largest employer in the country, the employer that can best afford it—the General Government.

In speaking of the rights of the working people to a reduction of the hours of labor, I have meant, of course, to include the working women of America. All the reasons for the eight-hour rule, in the interests of society and humanity apply with equal or greater force in their favor.

The nature of the subject and your request in the note inclosing the resolutions of the State council that I should write out my views, to be communicated to the council, must be my defense for the length of this letter.

Very truly, your friend,

EUGENE CASSERLY.

General A. M. WINN,

*President Mechanics' State Council of California.*

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## THE FUNDING BILL.

**The National Banks—Their great profits—They should bear a much larger share of the general burdens—Should the United States surrender the right of taxing its bonds, interest and principal?—Twelve millions commissions for negotiating the new debt.**

### REMARKS

OF

# EUGENE CASSERLY,

## OF CALIFORNIA,

IN THE SENATE OF THE UNITED STATES, MARCH 10 AND 11, 1870.

On March 10, 1870, the Senate, as in Committee of the Whole, had under consideration the bill (S. No. 330) to authorize the refunding and consolidation of the national debt, to extend banking facilities, and to establish specie payments. The pending question was as to the provision of the bill requiring the national banks to replace the United States bonds now deposited by them as security for bonds at a lower rate of interest under the bill. Several Senators opposed this provision as unjust to the banks. Mr. CONKLING, of New York, argued that it was a violation of the contract created with the banks by the present banking act.

Mr. CASSERLY then said:

Mr. PRESIDENT: I am prompted to say a few words upon the point in debate before the Senate. I say them, not so much to present any ideas of my own especially, as to recall a notable historical fact in the dealings of another Government in another land with a great banking institution, having relations with that Government in substantial analogy to the relations of the national banks with our own Government. I speak of the dealings of the British Government with the Bank of England, so far as respects the circulation of that bank, which she is allowed to issue upon the amount of £14,000,000 sterling of securities of that Government held by her. As those securities draw interest at three per cent. in her hands, Senators will see that the analogy is perfect.

I confess, sir, that I was not prepared for the debate which has arisen on this section eight of the bill. I regarded the section as more than liberal toward the banks. I was aware, and leading Senators of the Administration party in this Chamber have stated, especially the Senator from Indiana, [Mr. MORRIS], with great force and point, how grievously the people feel the burden of the national banking system of the country. That class of persons, compelled to rely upon those banks for business accommodation, feel the burden perhaps more than any other. They more than any others are made to suffer from those oppressive practices of the banks to which the Senator from Indiana adverted with such just criticism the other day. In the course of his remarks then made he stated it as a fact in the politics of the day that the Democratic party was opposed to the banks. He proceeded in the course of his accusations against the banks to

furnish abundance of reasons why not only the Democratic party should be opposed to them, but why the party of which he is so honored a member should also be opposed to them. After hearing the Senator the wonder is that he and his party are not opposed to them also.

All these things considered, I was not prepared for the opposition made to section eight on behalf of the banks. I take the words with which the Senator from Ohio [Mr. SHERMAN] sat down. If there is any objection to this section it is that it is far too liberal toward the banks. It is too indulgent altogether, and the difficulty will be to support before the country this feature of the bill should the bill become a law. The banks I supposed would be more than satisfied with it.

I listened to the Senator from New York [Mr. CONKLING] who spoke in reply to the Senator from Ohio. I listened particularly to so much of what he said as stated a legal objection to this section. A legal objection is one to which I always listen with attention and deference when it is presented by a Senator so well qualified to present it as is the Senator from New York. He took the ground that there was a legal objection arising out of "the contract," as he says, between the Government and these banks created by the banking act. That is a preliminary objection. It is therefore to be first cleared out of the way, if I am able to do so. In the debate here on the currency bill I had occasion to offer a proposition the effect of which was that the bonds held as a security and a basis of the national banking system should cease to bear interest while they were so held. This was on the plain ground that it was no more than the banks should pay for the great franchise granted to them by the United States, the richest ever known in legitimate banking. My proposition was voted down so summarily by the Senate as to leave it not worth while for me, even with my strong convictions, to push the matter further. I then adverted to a feature of the national banking law, which contemplated and permitted such legislation as I urged. That feature is found in the last section of the banking act. I read it as follows:

"And be it further enacted, That Congress reserves the right at any time to amend, alter, or repeal this act."



Taking the manifest view of that language, what was its object, what was its effect? The Senate will observe how strong it is. It applies to and it embraces every possible exercise of legislative power over the subject-matter of the act. Congress reserves the right not only to repeal the act but to amend it or alter it. It may amend or it may alter it in any particular or any number of particulars. The Senator thought it did not furnish any warrant for the power now claimed. Why not? If there was in the law "a contract" between the Government and the banks, as is said, that was one clear reason why Congress should, in the act of creating a banking system, reserve to itself full control over it, and over the whole subject-matter for all time to come. There were other reasons why Congress might be unwilling to place beyond its full control this great banking system and the powerful corporations which were to compose it and which were of necessity to be united and banded together by the strongest of all possible ties, a common origin, a common interest, common likes and dislikes. Congress did not intend that this great body of banks should be able to place themselves beyond its reach. In furtherance of that wise and necessary policy Congress provided expressly for a continuing control of the subject, of the system, of the banks, of their functions, of their rights, of their privileges. Has the section any other meaning? Can any other be pointed out?

We have had in our constitution in California, fortunately for ourselves, a provision precisely the same as this in effect, and but slightly different from it in language. It is the thirty-first section of the fourth article of the constitution of that State. It reads:

"Corporations may be formed under general law, but shall not be created by special act except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed."

Now, sir, necessarily in that growing and active State of ours, where corporations are so numerous in proportion to the population, that provision of the constitution has been frequently a subject of consideration. It has always been understood by the profession there that the effect of it was to leave in the Legislature complete and perfect power over the whole subject; in other words, to leave the Legislature of that State, as I contend the national banking act leaves Congress, in a situation to treat any matter subsequently arising in the regulation of these corporations as though it was a new question, to be dealt with without being trammelled in any way by the provisions of any act as passed. That was our understanding. That is and must be, I respectfully submit, the construction of the provision now before us in the national banking act. If that was not the intent and purpose, and if that is not now the construction of that provision, why was it put there?

Whom the gods would destroy, it is said, they first make mad. If I could suppose that the national banks of this country as a body

were prepared to try conclusions with the Congress of the United States, and still more with the people of the United States, upon the issue which has been presented here to-day, I should rejoice, because to that contest there can be but one result. Feeling as I do concerning this national system, and the evils and dangers with which it afflicts the country, and which are not likely to be mitigated in the future, but rather to be aggravated, I should hail it as a great deliverance if I could see the country relieved from the whole system with as little embarrassment as possible to existing business and financial relations. As a mere party question—if I may allude to this or any other subject in that narrow view—gentlemen who with me make up the Opposition in this Chamber will not regret to find the Administration party of the country siding with the national banks on this issue. I have some difficulty in comprehending the want of judgment which impels the national banks of this country to array themselves against a provision—if they do array themselves against it—to which, as was said by the gentleman who presented it, the only objection is its extreme moderation.

I said that my chief object in rising was to bring to the notice of the Senate an ap-historical illustration drawn from the dealings of the British Government with the Bank of England in respect to so much of the circulation of that bank as is based on the interest-bearing securities of the Government held by the bank. I send to the desk the *Encyclopedia Britannica* and ask the Secretary to read the passage marked.

The Chief Clerk read as follows:

"Exclusive of her functions as public banker and manager of the public debt the Bank of England is connected with Government through the circulation. We have seen that she is entitled to issue upward of fourteen million pounds sterling upon securities; that is, on the credit of the funds she has lent to Government. But for these she receives about three per cent. interest; and such being the case, the public is clearly entitled to a portion, if not to the whole amount of the profits realized by the bank on the issue of these £14,000,000. It is difficult to say how much this may amount to. The issue department of the bank seldom reissues notes, but for the most part destroys them as soon as they are returned to it. This practice is said to be necessary to enable the bank to obviate fraud by keeping a proper account of the numbers of the notes afloat. An opinion is, however, pretty generally entertained that this might be effected by a less expensive process than that which is now resorted to. And certainly it seems to be a very wasteful proceeding that a quantity of newly manufactured notes issued by the bank in the forenoon and returned to her in the afternoon should not be reissued, but consigned to the flames. The Scotch banks are justly censurable for keeping their notes too long afloat; but this is running, with a vengeance, into the opposite extreme.

But, as it is, the cost of maintaining an issue of £14,000,000 is estimated by the bank at about one hundred and thirteen thousand pounds a year; and taking the gross profits of the issue at three per cent., or £420,000, the net profits may be estimated at £307,000 a year; and of this sum the bank pays to Government £180,000, namely, £60,000 in lieu of the old charge for stamp duty, abolished in 1814, and a further sum of £120,000, leaving the bank £127,000 for her share of the profits. And so long as the cost of the issues remains at about its present amount we do not know that there is much to object to in this arrangement. Probably, however, were the allowance to Government further increased by some fifty or sixty thousand pounds, the bank might find means,

without injury to the public, of reissuing her notes, or of otherwise reducing the cost of their circulation."

Mr. CASSERLY. The passage read is from as high an authority as any we have on the subject of which it treats. It is from the well-known article on "Money" in the *Encyclopædia Britannica*, by the celebrated Scotch writer on finance, Mr. McCulloch.

Mr. SHERMAN. I would ask my friend if there is any allusion there to the controversy which the Bank of England endeavored to make with Parliament in relation to the reduction of the interest on the public debt?

Mr. CASSERLY. That is, I think, in a preceding part of the article.

Mr. SHERMAN. I will merely state, then, that in 1749 the people of England undertook to reduce the interest on the debt in the precise mode we are about to reduce ours. The Bank of England undertook to set up opposition, being a great holder of the public funds; and in two years the power of public opinion was so great against the bank on account of it that they were compelled to yield, and did yield. That is a historical fact in the financial history of Great Britain.

Mr. CASSERLY. The Senate perceives, I think, how complete the analogy is between the two cases in Great Britain and in the United States. Mr. McCulloch, on his great authority, says, in view of the fact that the Bank of England was allowed to issue notes to the extent of £14,000,000 upon that amount of securities of the Government held by her, upon which the Government was paying her three per cent. per annum, that as a matter of clear right the people were entitled to the whole of the profits made by the bank out of that portion of her circulation.

Of course that will have to be taken in connection with the fact that the bank had other circulation outstanding out of which also it made profit. But he lays it down as a fundamental principle of right and justice that the public were entitled to the whole of the profits which the bank made on the basis of the public securities. As a matter of fact what do we find? We find that the Bank of England for years has been paying to the Government three fifths of the entire net profits made by it in banking upon that class of securities. It has been paying yearly £180,000 out of £300,000 net profits. Mr. McCulloch declares that if the bank were a little more economical in respect, for instance, of the issuing of notes, and were to keep them for a reasonable period in circulation, instead of destroying a note the very moment it was brought back, although it might have been issued only the same morning, she could well afford to pay the Government fifty or sixty thousand pounds more out of the profits. This would raise the share of profits which, in his judgment, the bank could well afford by proper management to pay to the Government, and ought to pay, up to four fifths of the whole profits made by that institution out of the circulation based on the three per cent. securities.

We see now what the Parliament of England,

fenced about as it is by rank and power and dignity and privilege from the common people, removed, as we think it, from sympathy with the people, with the popular wants and grievances, has felt itself called upon from time to time to require of the Government bank as a concession to the country and as a relief to the burdens imposed upon the masses. It has felt that it could not justify itself to that people if it permitted their great national bank to have an immense franchise, as valuable as immense, but not more valuable nor more a monopoly than the franchise already given or about to be given to our national banks, without compelling the bank to pay roundly in the way of compensation for a privilege so extremely lucrative.

The Senator from New York says the case before us must be treated as though it were a case between the Government and a private individual. That illustration must, I think, have struck the Senator since he took his seat as erroneous; an illustration made in the heat of debate, and not tenable upon any sound judgment. It is precisely because it is not a case between an individual private holder of a bond and the Government that the rule proposed in this bill may well apply and ought to apply. Is it possible that gentlemen forget that what we have here is the case of an institution created by Congress for banking purposes, invested by Congress with a franchise of enormous profit? Can gentlemen see no difference between such a case as that and the instance put of dealings between the Government and private citizens holding our bonds? The difference is so wide that it is impossible to imagine any relation of analogy between the two cases.

The real difficulty about the provision is that it is not sweeping enough. If we were to apply here the rule which the British Government applies to the Bank of England we should compel these banks to pay over to the Government a very large proportion of the enormous, unheard-of profits which they have made up to this time out of the public grant and credit. It is true that those profits were doubtless larger than any one expected; and nobody blames the banks that they have been so. That was their good fortune; but they will be much to blame, and the political party which undertakes to sustain them will find the task one of extreme difficulty, if after all that has taken place, after the extraordinary, enormous, compounded profits which these banks have made at every step and at every turn of their dealings with the Government and the people—commencing from the time when they bought bonds for fifty cents on the dollar, and upon the interest which they received in gold, got a premium of fifty, sixty, or seventy per cent. in paper—if after such a history as that they shall attempt a refusal to abate their unwarranted claims upon the Government, or to remit somewhat of their enormous gains, and bear their full part of the great financial obligations of the country.

In the report of the Comptroller, lying on our



tables, I find that on October 9, of last year, the capital stock of these banks was a little over four hundred and twenty-five million dollars. I find also that their "surplus fund" at that date was over eighty-six million dollars; that what were called their "undivided profits" at that date were over forty million dollars. The amount of the net profits which they divided does not appear in this report; but I have seen them stated in an authentic shape in a public print at nearly eleven per cent. on the average on their capital. This is admitted by the banks themselves. To that admitted sum add the ordinary addition to be made to a bank's statement of its own profits, say forty or fifty per cent., and I think it will not be extravagant to say that the divided net profits of these banks during last year were fully fifteen per cent. on their capital. Surely this is not an improbable estimate if you consider that they had six per cent. in gold upon their bonds, worth in paper seven to eight per cent., and upon those bonds the right to issue ninety dollars in notes on every \$100, for which they must have received, I should say, at the lowest an average interest of seven per cent.

If Senators think that they can sustain before the country the position of resisting in the interest of the banks a provision which requires them to substitute in lieu of the bonds now held as security the bonds provided by this bill, and bearing a lower interest, they are welcome, so far as I am concerned, to pursue that course. But if I know anything of the temper of the country, if I have learned anything of the history of the struggles which have been from time to time between the money power wielded by one bank or many banks, and the people, I think if Senators on the other side can afford to take such a position, we of the Opposition can afford to let them.

I shall vote against any modification of this section on account of the principle involved rather than the pecuniary amount. I shall be much gratified if some one of the Administration Senators—for I presume it would be quite futile for any member of the Opposition to do so—will offer an amendment which shall turn into the Treasury of the country a portion of the profits of these banks at least as large as that given by the Bank of England out of a much smaller percentage of profits. A larger portion would be more fair, more considerate of the people and their great burdens of taxation and of interest. We see what has been done elsewhere. Can we not imitate if we will not equal it? Surely it ought not to be said that in this great Republic, with our popular democratic representative forms, the Congress of the Union is more tender of the banks and less considerate of the people than the Parliament of Great Britain.

Subsequently, in the course of the debate,

Mr. CORBETT said: The Senator from California [Mr. CASSERLY] this afternoon alluded to what the Bank of England has done. Sir, I care but very little what the Bank of England has done. If England has repudiated a por-

tion of its debt I think it is a very bad example for us to follow. The reason that emigration is flowing toward our country is because of oppression in Europe. That oppression has been such as to drive our forefathers here, and the forefathers of our friend from California and himself from Europe. If the oppression there has compelled people to come here I think we should use them differently in this country; we should establish a different code of morality; we should live up to our engagements instead of repudiating them. I thought we had an American idea here; that we were going to pay our debts in full; that we would not repudiate; that we were going to stand by what we said we would do.

The following discussion took place:

Mr. CASSERLY. I think my friend from Oregon who has just spoken, and whom I did not wish to interrupt in the thread of his remarks, must have misunderstood the purport of what I said to-day. I spoke of no action on the part of the British Government that was a repudiation of any portion of its debt. What I spoke of was the policy of that Government in dealing with the Bank of England, with respect to so much of the circulation of that bank as was based upon the securities of the Government bearing interest in the hands of the bank. I stated as to that circulation that the policy of that Government had been to require of the bank, as some offset to the interest which it derived from Government securities in its hands, to pay to the Government a portion of the profits from that circulation, which portion of late years had come to be equal to three fifths. I urged that as a precedent which would warrant a very summary mode of dealing on the part of Congress with our national banks.

Nothing was said or suggested anywhere of repudiation in connection with that subject. Nobody, I think, even among the warmest advocates of the Bank of England, ever breathed that word in reference to the policy of the Government. It never was supposed, so far as I am aware, by anybody in that country, when the Government of England insisted upon the bank paying a certain proportion of the profits derived from a franchise as a compensation for it, that the charge of repudiation could in any way grow out of the fact that the bank at the same time held bonds of the Government bearing interest upon which circulation was based. I am sure that would be to have a very wild and vague idea of what constitutes repudiation.

Mr. CORBETT. I understood the Senator from California to state that the people demanded that they should give up a certain portion of their bonds. I came in just as he was making the statement, and did not perhaps definitely understand whether it was a portion of the bonds or the income therefrom; but I supposed it was the income of the bonds. He now states that it was the profits upon the circulation. If the Senator claims that we have a right to tax the circulation, if that is it, as I understand him now, that is just what we are doing. We tax the circulation of our national



banks one per cent. In addition thereto we tax every dollar that is deposited in these banks.

I say if this funding scheme is simply to end with the banks, and they are compelled to take these bonds bearing a low rate of interest, and sell the bonds that are now paying them six per cent., those bonds will go abroad. If you compel them to take bonds paying four and a half per cent. I say you are doing injustice to your own people.

Mr. CASSERLY. One word more, sir. The bill may be open to the objections stated by the Senator from Oregon. I am not particularly an admirer of the bill in its general outline, and I do not propose to discuss with the Senator any of the objections which he has stated to the bill. I rose merely to vindicate the statement which I made to-day. The national debt of England commenced originally in repudiation and something worse. The Government without the least right seized £1,330,000 deposited in the Exchequer of January 6, 1672, by the London bankers. This transaction the Government afterward compromised by consenting to consider the sum taken as a loan upon which it would allow interest to the owners, with the right to redeem by paying one half. The other half it never gave any account of. This was the beginning of the English national debt.

But I never heard of any suggestion of repudiation in connection with the matter of which my friend from Oregon spoke awhile ago; that is, the policy of requiring the Bank of England, as a Government measure and as due to the people of that country, to pay a sum equal to three fifths of its profits on the circulation which was based on the Government stock in its hands bearing interest. From that I wished the inference to press itself on members here whether the policy of this Government should not be to require the national banks to pay at least an equal proportion of their profits into the Treasury for the relief of the heavily-taxed people of the country.

Considering the different circumstances of the two countries, and the enormous profits made by the national banks of this country, as contrasted with the small profits upon which the arrangement between the British Government and the Bank of England was made—profits estimated at only three per cent. per annum—my idea would be that a larger proportion than three fifths of the profits of the banking system of this country should go to the benefit of the Treasury and of the people of the United States.

Mr. CORBETT. I would like to ask the Senator whether the Bank of England is taxed aside from that? I ask for information.

Mr. CASSERLY. I really cannot answer that question. I presume she is. The English Government has, I think, taxed the interest on its securities by the income tax.

Mr. CORBETT. If this is a tax in lieu of the ordinary tax, such as we have in the shape of State, county, and municipal taxation, our tax quite amounts to perhaps that on the Bank of England. We tax the national banks four

and four tenths per cent. now, in our national and State taxes, on the average.

Mr. CASSERLY. The subsidy paid by the Bank of England is sixty per cent.

The question being on an amendment striking out the provision of the bill compelling the banks to deposit the new bonds at a lower interest, the amendment was rejected, and the provision retained, as follows:

YEAS—Messrs. Buckingham, Conkling, Corbett, Edmunds, Ferry, Gilbert, Hamlin, Howard, Howe, McDonald, Morrill of Maine, Morrill of Vermont, Pomeroy, Revels, and Scott—15.

NAYS—Messrs. Abbott, Bayard, Boreman, Casserly, Chandler, Cole, Drake, Harlan, Howell, Johnston, Kellogg, McCreery, Osborn, Pratt, Ramsey, Rice, Ross, Sawyer, Sherman, Spencer, Stewart, Stockton, Sumner, Thurman, Trumbull, Warner, Willey, Williams, and Wilson—29.

#### SHOULD THE UNITED STATES SURRENDER ITS RIGHT TO TAX ITS BONDS?

On March 11, 1870, the funding bill being still under consideration by the Senate, the pending question was on the amendments offered by Mr. BAYARD, of Delaware, and Mr. BOREMAN, of West Virginia, to strike out the provisions exempting the bonds and the interest payable thereon from taxation by the United States or any State authority.

Mr. CASSERLY. Mr. President, it occurs to me that there is not much in the idea that by retaining, either expressly or impliedly, this power to tax the bonds, whether as to the principle or interest, we thereby diminish the market rate of the bonds in the world. Even though that were true it would be no answer to the general objection that the Government ought not to exempt any considerable portion of the property of the country from bearing the burdens of Government.

There is, however, another consideration which has fully as much to do as that which has been suggested with any wise system of taxation; and that is that the burden of taxation should fall wherever it can be best borne. That is a rule of universal application, both as respects the subject-matter of the tax and the persons by whom it is to be paid. The only difficulty is in the just development and carrying out of the rule. Now, sir, can any class of people in general be selected who are more capable of bearing the burden of a small tax upon income than those who are owners of bonds and receiving a regular interest from the best paymaster in the country, namely, the Government? It seems to me that in that point of view—the better distribution of the burdens of taxation—it is a very improper thing for the Government in this bill to abandon its right of taxation, at least as to the income received from these bonds.

My friend, the Senator from Ohio, [Mr. THURMAN,] insists that it is not in the power of one Congress to bind another to this extent. But what will be contended undoubtedly will be this: that this provision of law is a contract between the Government and the holders of its bonds; and if it be a contract it will be said either that it will be a breach of faith to violate it, or else that Congress has no power to violate it. I am one of those who believe that

there is no constitutional authority in Congress to pass a law violating the obligation of a contract; and if I could be persuaded that such a provision is in the nature of a contract I should have to acquiesce in the position that this legislation is final. But in either point of view I should regard it as an extremely embarrassing provision to insert on this bill. Nothing can be more unjust.

Mr. WILLIAMS. I should like to ask the Senator a question if he has no objection.

Mr. CASSERLY. Certainly.

Mr. WILLIAMS. Does the Senator believe a loan can be negotiated at a rate of interest lower than four per cent.?

Mr. CASSERLY. I have already expressed my opinion on that subject. I think, in the present condition of our securities, we cannot negotiate a loan at four per cent., much less at a lower rate.

Mr. WILLIAMS. Then the tax would of course reduce the rate of interest lower than four per cent., and would only make it more difficult to negotiate a loan at a cheap rate of interest.

Mr. CASSERLY. Well, sir, before this bill comes to a final vote I shall have occasion to state my objection to the time which has been selected for pressing this bill on this body as premature, improvident, and in the highest degree objectionable. That is a reason why, in my judgment, this loan will be difficult of negotiation, even at the rates of interest named. But I am addressing arguments now to gentlemen who believe this to be a proper season to negotiate such a loan, although at this time the credit of the country is not fully established. I shall have more to say upon that subject presently, at some other stage of the debate.

My purpose is not to interfere with the negotiation of the loan, but it is to object to the insertion of a provision in the bill which I regard as objectionable in every point of view. You are making that most odious of all classes in the community, a class which is exempt from taxation. You are not only making them the objects of popular enmity, but you expose the property which they hold, and which is exempt from taxation, to the same general feelings of antipathy and dislike. Two unwise things you are doing: you are establishing an odious class in the community, whose only fault is that they are the holders of your securities, and the odium which you bring upon them will inevitably extend itself in time to the securities themselves.

I know very well, sir, that I shall be met, if I am met at all, with the general arguments, or rather assertions, with which we are so familiar. But, considering the length of time which this loan has to run, and the probabilities of changes in public opinion which may take place, and the certainty that the strong and excited feelings of the past eight or nine years must shortly disappear, and, as we must all hope, never to reappear in the country, I suggest to gentlemen of the majority in this Chamber whether it is a prudent thing to insert a provision of this kind in the bill,

making a discrimination so objectionable and so obnoxious in the points of view which I have mentioned.

Mr. SPRAGUE. I desire to vote in such a way as to tax the income on these bonds; in other words, that the income of the parties holding these bonds shall be subject to taxation, because to-day these bonds are held by parties who are able to obtain money thereon at four or four and a half per cent., in contradistinction to commercial paper on which from twelve to twenty per cent. is paid, and that difference so much in favor of these bonds should not exempt them, but should rather increase the burdens of taxation upon them.

THE PRESIDING OFFICER. The question is on the amendment of the Senator from West Virginia, [Mr. BOREMAN.]

Mr. CASSERLY and Mr. CORBETT called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 14, nays 29; as follows:

YEAS—Messrs. Bayard, Boreman, Casserly, Cole, Harlan, Johnston, McCreery, Pomeroy, Pratt, Sprague, Stockton, Thurman, Willey, and Wilson—14.

NAYS—Messrs. Buckingham, Cameron, Chandler, Corbett, Drake, Fenton, Ferry, Fowler, Gilbert, Harris, Howard, Howell, Kellogg, McDonald, Morrill of Vermont, Osborn, Ramsey, Revels, Ross, Sawyer, Schurz, Scott, Sherman, Stewart, Sumner, Tipkoff, Trumbull, Warner, and Williams—29.

ABSENT—Messrs. Abbott, Anthony, Brownlow, Carpenter, Cattell, Conkling, Cragin, Davis, Edmunds, Hamilton, Hamlin, Howe, Lewis, Morrill of Maine, Morton, Norton, Nye, Patterson, Pool, Rice, Robertson, Saulsbury, Spencer, Thayer, Vickers, and Yates—26.

So the amendment was rejected.

The amendment of the Senator from Delaware, [Mr. BAYARD,] to strike out the fourth section was also rejected.

#### TWELVE MILLIONS COMMISSIONS FOR NEGOTIATING THE NEW BONDS REDUCED TO SIX MILLIONS.

Section five of the funding bill allowed the Secretary of the Treasury to expend for agencies, advertising, issuing, and other expenses in negotiating the bonds, a sum not to exceed one per cent. on the whole amount of bonds authorized; that is \$12,000,000 on the \$1,200,000,000 of bonds.

This provision excited much opposition, and several efforts were made to amend it, all of which were voted down.

Finally Mr. WILSON, of Massachusetts, moved to amend by substituting for "one per cent.," "one half of one per cent.;" thus reducing the \$12,000,000 commissions to \$6,000,000. The following debate ensued:

Mr. WILSON. I move to amend by inserting in the eighth line of the sixth section the words "one half of one per cent." in lieu of "one per cent." I think that is sufficient. I do not wish to take time, but I hope we shall restrict this to one half of one per cent. It is abundant. I believe the work can be done for one fourth of one per cent., and I do not think we ought to appropriate so large an amount as one per cent.

Mr. CASSERLY. I am very glad that some gentleman of the majority in this Chamber has moved to reduce this amount. I wish the Senator had moved for a further reduction, but I think the country will be fortunate if the reduction which he has suggested obtains the vote of the Senate. I regard the section as it stands



as wholly inexcusable. Because during the height of the war when everything looked doubtful, our credit as well as other things, large percentages were allowed for negotiating the public loans, does that furnish any precedent for keeping up those rates, ay, and not only keeping them up but exceeding them, doubling them and trebling them?

The Senator from Pennsylvania, [Mr. SCOTT,] who made one ineffectual effort to bring the Senate to something like a reasonable sense of what was due to the country on this subject, stated the other day that a loan negotiated in 1862 or 1863, when our credit was low enough, was negotiated at three tenths of one per cent. Why do we propose to pay so much more now—more than treble what that was? Has any reason been given for it?

The Senator from Rhode Island [Mr. SPRAGUE] observed that the amount of one per cent. allowed here on this vast sum of money was far beyond any rule of compensation in ordinary business. Every one conversant with the ordinary course of business knows that no such amounts are there dealt with as the amount proposed in this bill.

Let me say to Senators that if the Senate of the United States shall agree to this percentage fixed in the section it is proposing to do something that, in my judgment, no legislative body in the world to-day which is anything like a representative body in its constitution would venture to do. I wish to call the attention of the Senate to the practice of the British Government on this subject. That country has a large debt to deal with, unfortunately for them a much larger debt than even our own. For a series of years the Bank of England has negotiated that debt, has handled it, and has managed it. More than that, the Bank of England is responsible for all errors committed by its clerks or agents in the business, and for all frauds practiced, and for all defalcations in connection with the debt; so that the losses which it pays, one year with another, on account of that debt alone are estimated as exceeding fifty thousand pounds per annum. And yet, taking a year as recent as the year 1863, what sum was paid by the British Government to the bank for this business? In that year the bank negotiated and handled £735,000,000 of the public debt.

Mr. SHERMAN. That is the whole amount of their debt.

Mr. CASSERLY. I am aware of it; and of that amount £230,000,000 were in new stocks, new annuities, about equal to the whole amount proposed to be issued under this bill. For that service performed by the bank, the bank taking all the risks which I have mentioned, the bank received from the British Government a little over two hundred thousand pounds sterling. The exact figures were near two hundred and twenty thousand pounds—about eleven hundred thousand dollars. So that for a mass of transactions of the same kind, amounting in dollars to about thirty-six hundred millions, (three times the amount of the debt covered by this bill,) the

British Government paid the Bank of England about three cents on the \$100 where the Senate bill proposes to pay one dollar on the \$100.

I have just the same interest and no more in the operation of this bill as any Senator who hears me, and if I have evinced some warmth I beg to be excused for it. But I could not sit silent in my seat and permit a section like this to go through without entering my strongest protest against it. I do not believe that the American people deserve to have this burden added to the great burdens already carried by them so manfully and so unflinchingly.

Twelve million dollars! Gentlemen may say that the whole thing is in the discretion of the Secretary of the Treasury. Sir, there is no public officer the world ever saw who ought to have the license to spend \$12,000,000 at his discretion in negotiating \$1,200,000,000 of debt. Is your credit so bad that you must pay that great premium to anybody in public or in private station for the negotiation of it? If it is you had better a great deal wait until it mends. Without intending to apply to the section any of the more severe remarks of which it has been made the subject, I earnestly trust it will not pass in its present shape. I should have been better pleased had the Senator from Massachusetts who last spoke proposed to cut down the percentage to one quarter of one per cent., which is more than Mr. Secretary Chase paid for the debt which he negotiated in worse days than these that are now upon us.

Mr. SHERMAN. I beg leave to correct the honorable Senator. I do not want to go all over this again; but I showed the other day that Mr. Chase allowed three eighths of one per cent. commissions besides the expense of preparing and issuing the loan; and Mr. Fessenden's negotiation cost three fourths of one per cent. Mr. Boutwell in his letter said he believed he could get along with one half of one per cent., but stated that if the usual appropriation, the same as that made in these bills, was allowed not one dollar would be paid out more than was necessary. I have no care about the rate fixed. If the Senate think really it would be better to put it at a half of one per cent. I have no feeling or desire to keep it higher. The letter of Mr. Boutwell was very satisfactory. This covers not only the cost of the negotiation of the bonds, but all the cost of their printing and engraving, the necessary agencies, commissions, and everything that is to be paid. If the Senate really think it had better be cut down to a half per cent. I have no special desire to keep it higher. The whole facts have been laid before the Senate.

Mr. CASSERLY. I speak with so much difficulty in consequence of the state of my throat that I am not inclined to protract what I have to say; but, in justice to myself, I must remind the Senator from Ohio that when I referred to three tenths of one per cent. as the rate of the negotiation of the bonds of 1862 or 1863 I gave my authority, the Senator from Pennsylvania, who spoke at length the other day and who was not contradicted, that I have heard, by any gentleman



in the body either then or since. If there is any error in it, of course the illustration fails.

Mr. SCOTT. The Senator will permit me to say that the statement is correct, that the negotiation of the first loan did cost three tenths of one per cent.; but that was the negotiation alone, the bonds having been previously prepared by the Treasury Department and issued.

Mr. SHERMAN. Three eighths instead of three tenths of one per cent.

Mr. SCOTT. No; the first loan cost three tenths.

Mr. SHERMAN. I have the official document here; but it is not worth while disputing about it.

Mr. SCOTT. I have the documents also. I do not think I am incorrect.

Mr. CASSERLY. Very well, sir; three tenths of one per cent. were allowed for the expenses outside of the Treasury. Why is not three tenths of one per cent. enough now? Expenses have not increased; our credit is better than it was; our loan will be sought throughout the world, if it is taken at all. There is no necessity for forcing it by us; still less will there be any need or propriety for hawking it around the markets of Europe. I shall regret for one if under any circumstances this section remains. No one has heard a single reason why the figure which is named here should not be reduced to the same amount which the Senator from Pennsylvania who last spoke has no doubt quite truly represented as three tenths of one per cent.

Mr. SCOTT. That there may be no mistake about it, I will read from House Document No. 66, Thirty-Eighth Congress, first session, giving an account of the negotiation of the first loan. On page 4 the Secretary says:

"This cost is a little less than three tenths of one per cent. on the whole amount, and is, as is believed, less than the cost of any other great loan, either American or English, heretofore negotiated."

Mr. SHERMAN. That was mere commission.

Mr. EDMUNDS. What was the appropriation?

Mr. SCOTT. I do not know what the appropriation was; but that was the actual cost.

Mr. EDMUNDS. That did not include the printing and engraving.

Mr. SCOTT. No, sir.

Mr. CASSERLY. Before I take my seat I shall move, by way of amendment to the amendment of the Senator from Massachusetts, to insert the very sum named by the Senator from Pennsylvania, three tenths of one per cent. Then the operation of the section will be this: that for the ordinary business done in the Treasury in connection with this loan, the same business of which the Senator from Pennsylvania has spoken, as the preparation of the bonds, &c., the charge will be covered by the usual appropriation for that Department, and

the three tenths of one per cent. will be for those expenses which may be considered extra, outside of the ordinary business and details of the Treasury. If that was enough in 1862 and 1863 surely it ought to be enough now. I move; therefore, as an amendment to the amendment of the Senator from Massachusetts, and I trust that he will be willing to accept it, to insert "three tenths of one per cent."

The PRESIDING OFFICER. Does the Senator from Massachusetts accept this modification?

Mr. WILSON. I do not wish to be ungenerous or illiberal in this matter. I have entire confidence that the Secretary will not use more than is necessary, and I am willing that it should stand at one half of one per cent. I believe it can probably be done for three tenths, but I think we had better let it stand at one half of one per cent.

The PRESIDING OFFICER. The Chair is of the opinion that the amendment of the Senator from Massachusetts is not susceptible of amendment, as the whole bill as it stands is itself an amendment.

Mr. CASSERLY. Of course I do not press it if out of order.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts, to make the clause read "one half of one per cent."

Mr. CASSERLY called for the yeas and nays; and they were ordered.

The question being taken by yeas and nays, resulted—yeas 23, nays 20; as follows:

YEAS—Messrs. Boreman, Buckingham, Casserly, Cole, Corbett, Ferry, Fowler, Harlan, Harris, Howell, Johnston, McCreery, McDonald, Pratt, Ross, Sawyer, Schurz, Scott, Sprague, Sumner, Thayer, Tipton, and Wilson—23.

NAYS—Messrs. Chandler, Conkling, Drake, Edmunds, Fenton, Gilbert, Hamlin, Howard, Kellogg, Morrill of Vermont, Osborn, Pomeroy, Ramsay, Revels, Rice, Sawyer, Schurz, Scott, Sherman, Stewart, Thayer, Tipton, Warner, Williams, and Williams—20.

After some other proceedings, the bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. SPRAGUE called for the yeas and nays on the passage of the bill; and they were ordered.

The result was announced—yeas 33, nays 10; as follows:

YEAS—Messrs. Anthony, Chandler, Cole, Conkling, Edmunds, Fenton, Ferry, Fowler, Gilbert, Harlan, Harris, Howard, Howell, Kellogg, Morrill of Vermont, Morton, Osborn, Pomeroy, Pratt, Ramsey, Revels, Rice, Sawyer, Schurz, Scott, Sherman, Stewart, Sumner, Thayer, Tipton, Warner, Williams, and Wilson—33.

NAYS—Messrs. Bayard, Boreman, Buckingham, Casserly, Corbett, McCreery, McDonald, Sprague, Stockton, and Thurman—10.

ABSENT—Messrs. Abbott, Brownlow, Cameron, Carpenter, Cattell, Cragin, Davis, Drake, Hamilton, Hamlin, Howe, Johnston, Lewis, Morrill of Maine, Norton, Nye, Patterson, Pool, Robertson, Ross, Saulsbury, Spencer, Trumbull, Vickers, Willey, and Yates—26.

So the bill was passed.

# THE FIFTEENTH AMENDMENT.

Bills Purporting to Enforce—Really are to Control, by the Federal, Civil, and Military Power, the Whole Subject of Registration and Elections in the States.

## SPEECH\*

OF

# EUGENE CASSERLY,

OF CALIFORNIA,

(During the Protracted Session Commencing Friday, May 20, 1870, at 12 m., and Ending Saturday, May 21, 1870, at 7 a. m. :)

IN THE SENATE OF THE UNITED STATES, MAY 20, 1870.

The Senate having under consideration the bill (H. R. No. 1293) to enforce the right of citizens of the United States to vote in the several States of this Union, who have hitherto been denied that right on account of race, color, or previous condition of servitude, and the Senate bill (S. No. 819) for the same purpose—

Mr. CASSERLY said:

Mr. PRESIDENT: By this morning's Globe I see that among the many friendly acts for which I am indebted to the Senator from Ohio [Mr. THURMAN] I must count a statement made by him in the Senate yesterday that I intended to speak upon the two bills from the Senate and the House to enforce the fifteenth amendment. I had not yesterday any settled purpose of the sort. The condition of my health and of my voice was not then, and is not now, such as to warrant the attempt on my part to address the Senate at any length. Hence, though I feel myself somewhat engaged by the promise made on my behalf by my friend from Ohio, I should not venture to speak to-day but that I desire to present, in respect to these bills, one view which I have not yet heard, which seems to me unanswerable, and which, if so regarded by the Senate, must control its action upon them. If before presenting that view I shall enter somewhat into a general discussion of both bills before us, it will be for the purpose of preparing the way for the principal view.

\*This is the first of two speeches delivered by Mr. CASSERLY during the same debate. The second was made after midnight between one and three o'clock in the morning of Saturday, May 21. It was directed chiefly to the amendment of Mr. SHERMAN, of Ohio, introduced late Friday evening, and to his remarks in support of it.

The pending bills are, I believe, the first likely to result in a law of Congress which have come up for discussion under any of the three constitutional amendments since the war. They involve questions that are new, grave, and difficult. For that reason I have been gratified to observe the disposition shown by the majority of the Senate to consider them fully and thoroughly. When the Senator from Nevada [Mr. STEWART] who has the Senate bill in charge announced, when he first succeeded in getting his bill before the Senate last Monday, that he designed to bring it to a vote the same day, and called upon the majority in this Chamber to sustain him,—I confess that, considering the great novelty, importance, and difficulty of his bill, I was filled with emotions which, had I expressed them at the time, I should have had difficulty in expressing in language entirely parliamentary. It soon became manifest, however, that the Senator from Nevada in his most extraordinary demand did not represent his political associates in this body. As we saw one after another of the leaders of the dominant party here urge objections, pointed and unanswerable, to the Senator's bill, the minority here might well hope that if we were to have legislation under the fifteenth amendment we should have it better considered, better adapted to legitimate ends, much better calculated to preserve the peace of the country, than anything which could be forced through suddenly without any fit discussion, at a single session, as demanded by the Senator from Nevada.

THE SENATE BILL, OPPRESSIVE, UNNECESSARY, AND UNCONSTITUTIONAL.

The Senate bill, as amended by the Judiciary Committee, is that principally pressed here. I



propose to show that in its leading features it is most unusual, oppressive, and dangerous, and that it is called for by no public necessity.

A measure which is both mischievous and unnecessary should have the clearest warrant in the Constitution. I shall therefore aim further to show that the bill is largely if not wholly unauthorized by the fifteenth amendment, which it purports to enforce. This last is the view which it is the principal object of my remarks to present.

The details of the Senate bill have been so thoroughly discussed by the Senators who have preceded me, especially the Senator from Ohio, [Mr. THURMAN,] that I shall speak only of a few features that strike me with most force.

#### IT NULLIFIES ALL STATE LAWS FOR REGISTRATION OF VOTERS.

It commences in section three with a general assault on the laws of the States for the registration of voters. There are differences of opinion as to what is a good registration system. My own judgment is that those States which have adopted the principle in registration that the right and the opportunity to be registered shall be carried on the simplest terms to every man's door by the officers of the law have the best system:

But whatever may be said for or against the different systems of registration in the States, no one can doubt that upon the whole some system of registration is demanded by the convictions of the great majority of the people of the country, as supplying the only practicable guard, especially in great cities, against frauds which corrupt and nullify popular elections. If there be any party in the country which more than another has, at least in words, been the friend of registration as a system it is the party which now rules this Senate. Therefore do I confess my great surprise that among the first assaults which this bill makes upon the whole system of rights, liberties, and laws already established in the country in reference to elections, is an assault upon the State laws of registration. It permits and encourages any person and any number of persons, ignorant, weak, or wicked, to set at naught and overthrow the registration system of any State. It leaves it with any man who, upon whatever ground, whether well or ill founded, has not been allowed to register, whether he has failed through his own error in not going at the right time or his perverseness in going at the wrong time, or from want of qualifications, or any other fault or misfortune of his own—it leaves it with every such man, upon his bare affidavit, to involve the officer of election who has refused his vote at the polls for want of registration in heavy liabilities both in his person and his property. It authorizes every such man, upon an *ex parte* affidavit, in which he is not obliged even to swear that he is a qualified voter—to require you, Mr. President, if you

were sitting as an officer of election, to receive his vote though never registered. If you refuse, he can have you hauled from your seat at the polls to the common jail. He can do that to you and to all the other judges at the same poll; he can break up the election at that poll on the basis of an affidavit, in which he is not required to say that he had any right to the vote which you denied to him.

I called the attention of the Senate the other day to this most startling provision. I invite its serious attention to it again to-day. I do so because at that time my friend, the Senator from Vermont, of the Judiciary Committee, [Mr. EDMUNDS,] not actually, perhaps, but apparently questioned the accuracy of the view which I then suggested. The bill of the Judiciary Committee is perfectly plain. It provides what the affidavit shall contain upon which the judge of election shall receive the unregistered vote, or be arrested and dragged out of his seat. It says it shall be an affidavit "stating such offer," that is, his offer to be registered, "and the time and place thereof, and the name of the officer or person whose duty it was to act thereon, and that he was wrongfully prevented by such person or officer from performing such act." It says this and no more.

The language, the Senate will observe, is that the affidavit shall "state" so and so. Why was the word "state" employed? Lawyers understand perfectly well that between an affidavit which is required to "state" something and one which is required to "show" something, the difference is very great. An affidavit which has to "state" a good case is good if it follows literally the very words of the statute. An affidavit which is required to "show" a good case must set forth the facts explicitly as they are required to be proved in order to make out the case on trial. The difference is manifest. The former affidavit is a cover for loose swearing if not for false swearing. The latter furnishes every safeguard possible in *ex parte* proof the other way.

#### IT ENABLES ELECTIONS TO BE BROKEN UP ON AN EX PARTE AFFIDAVIT.

Loose and dangerous as such an affidavit is, the complainant even so is not required to "state" himself to be a qualified voter. It is true, as the Senator from Vermont remarked yesterday, that in another part of the section the words "being otherwise qualified" occur. But the Senate will observe, on looking at section three, those words have nothing to do with what the affidavit at the polls shall contain. That affidavit is the statement upon which the officer of election must act at his peril. If he rejects the vote he may be arrested and taken from the polls to jail. The Senate will readily see how impossible it is to carry on an election in any precinct where it is to the interest of either party, as it commonly will be, to break it up by the arrest of the board. You can

have quires of such affidavits made by heated partisans about the polls: made by them, too, without any deliberate intent of perjury. What man who fails to have his vote received at an election but considers himself just the most aggrieved person in the world?

Do we not know that there are hardly any questions so perplexing as the questions of law which constantly arise before boards of registration and boards of election? The very question of residence, which vexed the Senate so long in a recent case, and upon which, in my humble judgment, it succeeded most completely in reaching the wrong conclusion, is often one of the most difficult of questions. Yet, difficult as it is, it is constantly arising at the registration and at the polls: for residence is the stock upon which, by our laws, all suffrage is grafted. Under our system a voter must have locality. He must be identified by residence with the election district or precinct in which he offers to vote.

Who that knows anything of the practical workings of popular elections at the polls does not know how irritating it is at a great contested election to have one's vote rejected? A man's pride and party feeling are up in arms. In such a temper many a man is ready to become the instrument of annoyance to the officers who have disfranchised him. He would hesitate to make an affidavit throughout the of a thousand commissioner affidavits a warrant whole country, upon warrant the judge of election issues, and upon a warrant the judge of election can be carried from one end of a State to the other.

IT PUNISHES THE INNOCENT WITH THE GUILTY.

Next, sir, section four provides—

That if any person by force, bribery, threats, intimidation, or otherwise, shall hinder, delay, prevent, or obstruct, or attempt to hinder, delay, prevent, or obstruct any citizen from doing any act required to qualify him to vote, or from voting at any election,

then said "person" is to come under a great number of pains, penalties, and liabilities. His way of life is beset by civil and criminal arrests, trials, convictions, forfeitures, penalties, and imprisonments. In a civil action he forfeits \$500 to the injured party, and in a criminal is fined not less than \$500 more, and may be imprisoned from one month to a year. The language is: "that if any person by force, bribery, threats, intimidation, or otherwise," &c.

Where was fled the judgment of the Committee on the Judiciary when those two words got in? "Or otherwise!" Imagine a statute of murder framed in the same way. "Any man who shall willfully, feloniously, and with malice prepense, or otherwise, kill a human being shall be guilty of murder." "Or otherwise!" Then a man who kills another in lawful self defense in the direst emergency, when

his back is at the wall; or in defense of his wife's honor, or his child's honor; or the life of his wife or child; or by the most innocent accident; is guilty of murder, because he has taken life in some way "otherwise." Oh, what a trap for innocence lurks in "or otherwise!" What a perversion of law-making is "or otherwise!"

Who is safe under "or otherwise?" If one of you Senators should stop on the way to converse with a neighbor of whom you had heard that he was about to commit the atrocious crime of voting the Democratic ticket, and undertake to argue him out of it, and if in the warmth of the conversation it should so happen—for such things have happened—that you delay him beyond the time for the closing of the polls, whereby he loses his vote, then by this extraordinary clause for making anybody guilty, and punishing him accordingly, you are just as much liable, civilly and criminally, as though you had taken him by the collar and hustled him away from the poll, so that he lost his vote.

I hope, sir, that before no tripping net to and I know that before punishment as this there be sufferer clause, "or otherwise," in involve.

IT CREATES A CLASS OF POLITICAL INFORMERS AND THEIR ATTORNEYS.

Then, sir, everywhere throughout the bill you find the spawn of that most pestilent creature the political informer, hitherto unknown in this country; certainly unknown as a class created and fostered by Government; a class accursed of Heaven and execrated upon earth; who always and everywhere are the tools of the oppressor who uses and despises them, and are in the worst way the instruments of all the worst passions of our fallen nature.

But there is a lower deep in human degradation than the political informer. That deep has been fathomed by the Senate bill in the informer's prowling attorney, who sets him on, who behind the scene pulls the wires of chicanery and fraud. There is copious provision made for a rank growth of that human poison weed, also, in the clauses throughout the bill for costs and for counsel fees to be allowed by the court for the benefit of the informer's attorney.

In all cases of civil suit brought by the informer where a recovery is had it is with "full costs and such allowance for counsel fees as the court shall deem just." There is no limit to the allowance, and it may be as large as the recovery, which is fixed at \$500 in each case. The "Old Bailey" in London or the "Tombs" of New York might equal but could never

\*The clause here commented on was afterwards struck out. The same disposition was made of some other provisions of the Senate bill assailed in the speech. The very worst, however, were retained.



surpass the professional vermin of this bill. Do you see one of them during the harvest of a heated election, following his informer about like his shadow, setting him on, showing him how to trump up false charges against innocent men, how to entangle his unsuspecting neighbor in the meshes of this act; and then crawling into court with case made up between a client who is an informer and witnesses of like stuff to an inevitable verdict? How elevating all this must be in its effect on the morals of politics in the United States!

The Senator from Nevada, [Mr. STEWART,] who has charge of this bill, has found himself obliged to make so many changes in it that I have to inquire of you, Mr. President, whether or not section six has been struck out.

The VICE PRESIDENT. It has not been.

IT STRIPS THE STATE COURTS OF THEIR JURISDICTION OVER ELECTIONS.

Mr. CASSERLY. Then I call the attention of the Senate to the fact that while the bill in its scope covers completely the whole operation of the election laws of the States in their most details, this section six, taken with proceedings under the bill, gives to the courts of the United States the entire subject words, it and remedies in regard to elections throughout the country. Is the Senate prepared for this unwarrantable claim of power? See the extent of it in practice. There is not a constable in the United States who may not put in motion the machinery of the Federal courts under it. How many officers, great and small, do we elect from one end of the Union to the other in the course of a year? I never have seen it stated accurately; but the number must be forty or fifty thousand at least. You can have under this bill forty or fifty thousand suits annually in your Federal courts. Half that number, one fifth that number, would compel you to quadruple, to increase fivefold or more the number of your district courts, judges, and clerks. Are you prepared for that great expenditure? Do you propose that addition to the burdens of the people?

A SWARM OF COMMISSIONERS AND THEIR BAILIFFS.

In the next place, by section seven, the circuit courts of the United States and the superior courts of the Territories are authorized, without limitation, from time to time, to increase the number of their commissioners. They may thus create a hundred commissioners in one State like New York or Pennsylvania. In a hotly-contested election, should this bill pass, where the fears and the hopes and the animosities of men are aroused to the highest, that number of commissioners might be exceeded. In this way it is a possible thing that you might have a body of commissioners num-

bering a thousand or fifteen hundred throughout the country.

What more? Why, sir, each one of these commissioners is authorized to appoint, also without limitation, as many persons as he chooses, to execute whatever process he shall issue. Now, imagine these commissioners, created in the midst of a heated political contest, by hundreds or by thousands, appointing in turn under them, up and down the country, other officers, also by hundreds and by thousands, and it makes a condition of things difficult for the imagination to deal with. It fills the country with a swarm of officials, all of them specially authorized, appointed, and inspired to deal with and to control the elections throughout the Union.

THE COMMISSIONERS' BAILIFFS EMPOWERED TO CALL OUT THE ARMY AND NAVY.

If there could be anything worse, this bill has found it. It has found it because it gives to this horde of persons—special deputies for elections, thus appointed by a swarm of commissioners throughout the country, and who may be ten thousand in number—the power not merely to call upon the bystanders, the *posse comitatus*, but on whatever portion of the land or naval forces of the United States or of the militia may be necessary in their discretion, or in their whim or passion, to enable and "subpoena any warrants in their hands; cited by said officers shall run and be executed within which they are issued." The result of all this is that every loose fellow, every idler about the marshal's office, waiting for a job, every hanger-on of a commissioner's office, any bum-bailiff out of this body of ten thousand deputies of ten or fifteen hundred commissioners, has at his command and in his hands during the excitement and passion of a great contested election the entire military and naval forces of the country to be wielded at his will.

Was such an abuse in Government ever contemplated in the wildest times? Was there ever such a caricature of legislation? What ruling faction of the fiercest hour of revolution ever in history attempted such an enormity,—was ever mad enough to cast loose the tremendous powers of summary life and death which are reposed in the army and navy of a country, among a mob of one to five thousand men, appointed for the moment, irresponsible, unknown, beside themselves with partisan feeling, bewildered with unwonted power, perhaps in great part worthless or vicious men?

Something like this may occur for the few hours that disgrace and afflict humanity in the mad tumult of a captured town, given up to sack and pillage by an infuriated soldiery. But as an exercise of the powers of Government, still less of the law-making authority, such a thing has never before been heard of.

## EXCESSIVE FEES TO OFFICERS.

I say nothing as to the temptations held out to the cupidity of all these officers in the shape of excessive fees for ordinary services; such as ten dollars for every arrest. These are temptations. I care not a straw whether, as is said by the Senator from Vermont, [Mr. EDMUNDS,] these temptations have a precedent in the fugitive slave law. That law never allowed Congress to take military possession of the elections throughout the country. The temptations of fees now held out, I say to the Senate seriously, are not fit for them as conscientious men wielding the powers of Government to hold out to their fellow-men, of such a class as I have described, controlled by such passions as rage most during the excitement of great party contests; men incapable of self-control or of any high motive of action, as most of those thus hastily appointed by these hundreds of commissioners must inevitably be. Is it a fit thing, I ask of Senators, to tempt such a class of persons at every step with ten dollars here and ten dollars there, with an unlimited right to fees, fees for crossing the street, fees for five minutes' service; the most of them to be paid in any event out of the Treasury of the United States on the certificate of the judge of the district court, and election fees are concerned. Their "submit to Senation" are made "no right, not the least, to ators that they have no right, not the least, to hold out such temptations to abuse their power to the lazy and shiftless men who would be willing to take appointments from the commissioners.

## THE FEDERAL DISTRICT JUDGES PLACED UNDER THE PRESIDENT'S ORDERS.

Section eleven authorizes the President to order the Federal district judges, for the purposes of the act, to go to and fro from point to point anywhere in their districts. I cannot imagine a section so enormous will be suffered to stand. I shall therefore dispose of it very shortly. When, in the New Testament, the Centurion intended to signify most emphatically the perfect control which he supposed the Redeemer of man to have over the subject upon which he addressed him he cited his own case. He spoke of himself as being a man in authority, who had soldiers under him; that he said to one man "Go," and he went; to another man "Come," and he came. By all this he meant to signify the absolute power he had over his men. Such almost is the control which section eleven of this most extraordinary bill undertakes to give to the President over a part of the judiciary of the United States.

Does any man suppose this is constitutional? Why, sir, "appropriate legislation" to enforce an amendment means legislation that is adapted

to enforcing that amendment, and which is not in violation of that amendment or of any of the leading provisions of the Constitution. Now, I suppose it will be admitted, even in these days when it is so much the habit to bring the Constitution into contempt, that if there is one thing clear in the Constitution, it is that the executive and the judicial and the legislative branches are all separate and independent one of the other, and that the judiciary in an especial manner is entirely beyond the bidding and control of the Executive. Yet, under section eleven you give to the President all the dominion and control over the district judges, short of authorizing him to dictate their decisions.

In like manner section twelve of the bill is an extraordinary and obvious violation of the Constitution.

Mr. POOL. Will the Senator from California allow me to make a statement?

Mr. CASSERLY. Certainly.

Mr. POOL. I wish to call the attention of the Senator to the fact that this bill, eight, nine, ten, eleven, am discussing this bill are copied enforce the fifteenth amendment. The civil rights bill had another object. Yet I am surprised to hear that there are such provisions in that act. I do not think anybody has ever thought of enforcing them, or ever supposed them to be valid or constitutional. It certainly cannot be the law, while the Constitution stands, that a President who is a candidate for reelection, for instance, can surround the polls at one, or at many, or at all the precincts in a particular State, or in any number of States, with his soldiers and his marines to intimidate the voters and control the result.

Mr. POOL. My only purpose in interrupting the Senator was to call his attention to the fact that those sections were in the civil rights bill.

Mr. CASSERLY. Well, sir, if those sections are from the civil rights bill, as the Senator from North Carolina says, then the civil rights bill deserves all and more than has ever been said against it.

Sir, even if the civil rights bill does contain such provisions, even if the Congress of the United States, under the heats and the exigencies of a most bitter conflict between itself and the Executive, did pass such a bill, is it a proper thing to repeat that error now? Does it furnish any reason for a second violation of the Constitution, and, as every man must admit, of the traditions, usages, and ideas of the American people in regard to their elections?

But, sir, I shall show presently that this whole bill, from the first line to the last, is a violation of the fifteenth amendment itself, is



manifestly and grossly unconstitutional. I am merely discussing now the inherent objections to the bill itself, in its tenor and purview.

Mr. THURMAN. Will my friend allow me to interrupt him for a moment? I will say to the Senator from North Carolina that he is entirely mistaken. There is not one word in the civil rights bill on the subject of the right to vote. There is not one provision in it intended to secure or protect anybody in the right to vote. The right to vote is wholly outside of that bill; and every provision in that bill is limited to the object and purpose of the bill, which is declared in the first section of the act:

"That all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States, and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right in every State and Territory in the United States to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens; and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding."

It deals simply with rights of life, liberty, person, property. It does not touch political rights at all, has nothing in the world to do with the elective franchise. It was passed before the fifteenth amendment became any part of the Constitution, and could not have any reference whatsoever to the elective franchise. Every other section in the bill is simply to give effect to that first section, so that there is nothing whatever in this bill that has any application or similitude even to this twelfth section, which authorizes the President to substitute his officers of the Army as judges of election instead of those provided by law.

Mr. POOL. If the Senator from California will allow me to reply to what the Senator from Ohio says, I shall be obliged to him. As a matter of course I did not mean to intimate that the right to vote or anything about suffrage was in the civil rights bill. I meant merely to say that certain rights secured in that bill were to be enforced by certain machinery, and a part of that machinery was the appointment of all these commissioners, about which the Senator from California spoke. Another part of the machinery was taking a judge from the circuit and sending him wherever the President pleased, to which the Senator from Ohio objected yesterday. Another part of it was using the Army and Navy of the United States and the militia for the purpose of carrying into effect what was secured in the civil rights bill. Here is a political right, granted by the fifteenth amendment, which we propose now to have

carried into execution, and the very same machinery is adopted.

Mr. THURMAN. But does my friend from North Carolina suppose that the same machinery is adapted to every possible case? Has he found a universal catholicon for all diseases, so that you can give precisely the same pill, no matter what ails the patient?

Mr. POOL. I have known some pills so good that they cured more diseases than one. The Senate committee seem to have thought the machinery of the civil rights bill a very good pill for this case; and I ask the Senator from California why it is not as good here as it was there?

Mr. CASSERLY. I, too, have known—

Mr. DAVIS. Will the honorable Senator allow me to read a clause from an act of Congress passed in 1865?

Mr. CASSERLY. Yes, sir.

Mr. DAVIS. A law passed in 1865 provides—

"That it shall not be lawful for any military or naval officer of the United States, or other person engaged in the civil, military, or naval service of the United States, to order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State of the United States of America, unless it shall be necessary to repel the armed enemies of the United States, or to keep the peace at the polls; and that it shall not be lawful for any officer of the Army or Navy of the United States to prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State of the United States of America, or in any manner to interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State of the United States; any officer of the Army or Navy of the United States, or other person engaged in the civil, military, or naval service of the United States, who violates this section of this act, shall, for every such offense, be liable to indictment as for a misdemeanor in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction thereof shall pay a fine not exceeding \$5,000, and suffer imprisonment in the penitentiary not less than three months nor more than five years, at the discretion of the court trying the same; and any person convicted as aforesaid shall, moreover, be disqualified from holding any office of honor, profit, or trust, under the Government of the United States."

Mr. CASSERLY. Mr. President—

Mr. SHERMAN. I ask the Senator to allow the Senate to determine whether they will have a recess to-night.

Mr. CASSERLY. I would rather close my remarks first; I shall be through presently. A motion for a recess will lead to a debate, and, as I have nothing written, it disturbs very much the thread of my discourse to have a debate spring up between four or five Senators.

The PRESIDING OFFICER, (Mr. NYE in the chair.) The Senator from California is entitled to the floor.

Mr. CASSERLY. The Senator from North Carolina seems to think that because Congress passed a bad law in 1866 it should pass another equally bad now. True, the subject-matter

is different. The Senator, however, seems to think that the congressional doctors have discovered a pill that is a universal panacea—a general remedy for all diseases in the body-politic. I have heard of doctors who did not like to take their own medicine, and I fancy this sort of pill is just the medicine which the congressional doctors would not take themselves. Then we have heard of purges that kill the patient: and perhaps this pill, if thoroughly administered as designed by the Judiciary Committee, might have that unfortunate effect. If there is a disposition to repeat former legislation, why not repeat the good legislation of 1865, in the act just read by my friend from Kentucky, [Mr. DAVIS,] rather than the unconstitutional and already obsolete legislation of 1866 and 1867?

A GENERAL CLAUSE FOR DEPUTY COMMANDERS-IN-CHIEF OF THE ARMY AND NAVY.

But, sir, I was about to call attention to the closing section, the last act of this legislative melo drama. For fear that the ground had not been sufficiently covered, that there were not enough of pains, of penalties, of fines, of imprisonments, of affidavits, of swearing back and forth, of arrests, of informers, of informers' attorneys, of commissioners by the hundred and their bailiffs by thousands with power to employ the Army and Navy of the United States and the militia of the States *ad libitum*, at "their own sweet will;" besides all this, to cover everything, to include anything that might be left out, here is a general provision by way of grand finale:

"That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States or of the militia, as shall be deemed necessary to prevent the violation and enforce the due execution of this act."

Serious though the subject is, it is difficult to repress a smile in reading such a section. "It shall be lawful for the President of the United States, or such persons as he may empower for that purpose." Any person—civil, military, naval, high, low, official, unofficial—he may choose. Why, sir, under that section the President of the United States might so "empower" any Senator, say the Senator from Nevada, [Mr. STEWART.] Then would we see that Senator putting off his senatorial robes, and "employing the Army and Navy of the United States," with the same ardor he has shown in passing this bill, scour the Pacific coast in search of recalcitrant Democrats and impenitent copperheads, who might be accused of something under the many provisions of this act, and cast them into the deepest dungeons until after the election; and not only them, but those who are worse than Democrats or copperheads, bolting Republicans; Republicans who might be suspected of being suspicious, because they dare to look for some gleam

of mercy after so much vengeance; to scan the political sky with anxious eyes, watching for a ray of light in all its dark expanse, some beam of hope to the oppressed and the disfranchised throughout the southern land. Those, too, the Senator, with the Army and the Navy, the horse, foot, artillery, and marines at his back, himself all the while terrible as Mars, would have a right to hunt up, by day or by night, and to consign them to close imprisonment to receive condign punishment for their manifold offenses.

Seriously, Senators, where do you get the power to authorize the President of the United States to devolve upon any person or persons the authority so to employ the Army and Navy of the United States?

You may search the Constitution in vain for it. It is not in the letter nor the spirit of the instrument. It is not in the reason of the thing. As well might you say that he could delegate the veto power to anybody he might appoint; as well say that he could delegate his power of nomination. His power as Commander-in-Chief is precisely like those powers; it is a great power under the Constitution, confided to him as President. He must exercise it himself. True, he can have generals and admirals under him; but it is as his officers, to execute his orders. They do not "employ the Army and Navy;" but he, through them acting under him.

#### AN ACT TO CARRY THE ELECTIONS.

The largeness of the language is another objection to the section: "as shall be deemed necessary to prevent the violation and enforce the due execution of this act." That may mean, to "carry the election," and it is broad enough to mean it. In the hands of an unscrupulous President, a candidate for reelection, that is what it comes to—to control the vote, to carry the election. Nothing is easier. The mere presence of a great military force is sufficient, without an overt act. England once had a judge whose name was Jeffreys. His name is execrable forever. Ireland had a judge more execrable than Jeffreys; because, though living in an age which was better than the age of Jeffreys, he displayed all the atrocities of Jeffreys, without any of his abilities. His title by which he is best remembered was Norbury. While he lived to cumber the earth he was the scorn of the cruel Government that used him, and his memory has been detested by the mass of his countrymen and defended by none since his death. He had an evil prominence among the actors of that time of horror in his own hapless land, and of indelible dishonor to England, at the close of the last century; when the English Government was crushing out in blood and terror the last convulsive motions of a conquered rebellion. The least of the atrocities that ran riot in Ireland was the systematic control of



the elections by the Government by military force. About that period our Irish judge was dining with a company of English judges in London. The conversation turned on the proceedings of the military at the elections in Ireland. He spoke with glee of the large bodies of horse and foot that were employed at those elections. The Englishmen, who in the worst days in their own land for at least a century and a half had known of no such things, were astonished. One of them exclaimed to the Irish judge, "You surely do not mean to say that the military interfere in the elections." "Well, my lord," replied the other with a chuckle, "I do not know what you call 'interfering in the elections;' all I know is that we find the soldiers mighty good lookers-on." There is the enormity of the military feature of your bill. From the moment you employ your Army and Navy at any election its freedom is gone; it has passed into the control of the powers that be. Though your forces do nothing, they are "good lookers-on!" Nothing can prevent it. By their bare presence you intimidate the weak, you inflame the violent, you bring about in effect a state of martial law at the election in which opposition is paralyzed and the administration has everything its own way.

Such, sir, in a general way, are some of the unexampled, unconstitutional, and mischievous features of the Senate bill.

#### NO NECESSITY FOR THE BILL.

I come next to consider what is the necessity for such a bill. Is there the least in the world? This question always arises when a new law is proposed. What is the necessity; is it called for? This inquiry becomes the more pressing if the law is unexampled in its features; and bristles all over with unusual pains and penalties, liabilities and offenses, with proceedings unknown to the law, common or statutory. Such is the bill of the Senator from Nevada. Is there the least justification, or even excuse, for it?

#### GENERAL ACQUIESCENCE IN THE FIFTEENTH AMENDMENT.

Senators of the dominant party must themselves have been surprised by the general acquiescence of the political party to which I belong, throughout the country, without a serious exception, in the workings of the fifteenth amendment. I say "without a serious exception," and I challenge denial. The most bitter partisans of the Republican press, who still keep up unabated the worst violence and rancor of the war—

Mr. STEWART. Will the Senator allow me?

Mr. CASSERLY. I must decline to yield. I allowed the Senator, before I began to speak, awhile ago to speak a few words, as he said, in reply to the Senator from Oregon, [Mr. WILLIAMS,] and he wandered off into a new

field of discussion on the Chinese question. My voice will not last as well as usual, and I must husband it.

I say, sir, that there was no serious exception to the acquiescence of the Democratic party throughout the country, north, south, east, or west, in the operation of the fifteenth amendment. I admit there may have been, here and there, at some polls some officer who, hesitating between the severe penal provisions of the State law as it stood and the question how far that law was overruled by this amendment, may have declined to receive the votes of colored persons. We have been told in this body of precisely one such case—I refer to the case in Ohio—and no more, out of the thousands of voting places in the different States of the Union. In my own State I have heard of a single case besides, where a county judge in a southern county decided, upon a proceeding before him to compel the registration of black voters, that until legislation by Congress the fifteenth amendment did not operate *ipso facto* to annul the registration law of the State. That is the only opposition, if opposition it can be called, to the fifteenth amendment in California which has been persisted in. At first there were some adverse official opinions published; but these have since been withdrawn, or treated as though they had been by the officers of registration and of election in all the counties of the State except the one mentioned, so far as I have seen.

I said a while ago that not the most distempered partisan among the journalists of the Radical party has pretended anything to the contrary. Some of them have had the candor to confess and applaud the conduct of the Democratic party in this particular. As one such case, I refer to a newspaper published in this city. I refer to it because its article sums up all the principal news at that time, and because it happens to be the only article I have preserved of the many I have seen in the newspapers. I speak of the Chronicle of this city, a journal which, I presume, will not be accused of any undue leanings toward Democracy or Conservatism. That paper, of April 8, 1870, referring to what had taken place in Maryland and in New Jersey, both Democratic States, and at several elections in Ohio, sums up the whole situation in these words, to which I beg the attention of the Senate, and especially of those Senators who imagine there is some necessity for the oppressive and unprecedented penal and coercive provisions of the bill of the Senator from Nevada:

"There are, indeed, no serious exceptions to the rule. The revolution is complete. The colored man no longer votes in any section under the protection of the bayonet. He is sovereign in his own right all around the circle. The complaint that his ballot has been used on the South is hushed by his respectful and almost cordial recognition by the Democracy of the North."

## MARYLAND, KENTUCKY, AND NEW YORK.

I cite this language, not merely because it is the testimony of a Radical journal, but because it is testimony according to the facts. But that is not all. In Maryland there is, I understand, not one Republican in the Legislature; it is unanimously Democratic. In that Legislature steps were promptly taken to conform the legislation of the State to the requirements of the fifteenth amendment. A bill providing for the election of local officers in a county contained the usual word "white," as it passed the Legislature. It was on that ground vetoed by the Governor, also a Democrat, and his veto was sustained with substantial, if not entire unanimity. In Democratic Kentucky, where, if anywhere, if we are to credit a tithe of the statements made here by Senators within a month, it might be expected that there would be objection and obstruction to the black vote under the fifteenth amendment,—I observe by the dispatch of the Associated Press that at the recent election in the third district to fill a vacancy in Congress, the colored people voted *en masse* for the Republican candidate, and voted without the slightest hindrance or molestation. In New York, the last Legislature, Democratic in both branches, before adjourning modified the laws of registration and election so as to conform them to the fifteenth amendment; and the bills were signed by a Democratic Governor. Everywhere there is peaceful acquiescence in the new order of things—even in those quarters where obstruction and disturbance have most been predicted, perhaps because they were most desired by our political opponents.

## WHY THIS EXTRAORDINARY PENAL ACT?

While the political horizon is thus calm and bright, not a cloud in the sky, why is it that the weather-wise pilots of the Senate Judiciary Committee, under the lead of the Senator from Nevada, are in such haste to force upon the country a coercive penal bill, which seems intended to provide for a general uprising throughout the land against the fifteenth amendment, or against the bare possibility of such a thing in the remote future? In a time of peace, in a quiet neighborhood where the laws are observed and order reigns, does any man go about armed with revolver and bowie-knife? The man who does so is branded always by the just sentiment of an outraged community as a ruffian. Why, then, at a time when the country is in a state of profound quiet under the operation of the fifteenth amendment, new to all and harsh to so many though it be, and while all things are moving together as men of peace and good will would desire, why this Senate bill, with its cloud of oppressive and incendiary details: its alarming apparatus of pains and penalties, of prosecutions and persecutions, of arrests and imprisonments; its swarm of in-

fers and their prowling attorneys; of commissioners and their bailiffs by the thousands, each one of whom may seize any officer of election at the polls or any judge of a State court on his bench and cast him into the common jail? Above all, why these most extraordinary provisions for taking the entire military and naval power of the country out of the hands where alone the Constitution has confided them, the hands of the President; and putting them into the hands of any loose fellow, any hanger-on of the marshal's office, without business or character, out of the horde of bailiffs appointed by the commissioners amid the utmost excitements of a contested election?

In no Government in Christendom would a committee of a legislative body venture in time of perfect peace to recommend such a bill so packed with enormities as this bill of the Judiciary Committee—the mere insolence of power in its most wanton mood.

## THE BILL UNCONSTITUTIONAL UNDER THE FIFTEENTH AMENDMENT.

But, sir, all these are general considerations. I regret they have detained me so long from the main purpose with which I rose to address the Senate. My purpose was to bring to the notice of Senators a view of the subject which, if accepted by them, must control their action. That view is, that there is nothing in the fifteenth amendment which under the most liberal construction authorizes any of the legislation proposed by the bill of the Senate, or any of the provisions of the House bill after the first section. I ask the attention of Senators to this view because I deem it to be vital. I commence by reading the amendment:

"SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude."

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation."

## THE OBJECT AND POLICY OF THE FIFTEENTH AMENDMENT.

In considering the effect of this amendment the first inquiry is, what was its object, what was the policy of its adoption? We cannot differ as to the answer. It was the last of three amendments promulgated since the war. The first of these, the thirteenth amendment, abolished slavery. The fourteenth amendment declared all persons born or naturalized in the United States to be citizens of the United States. The fifteenth amendment forbids the United States, or any State, to deny to citizens of the United States the right to vote "on account of race color, or previous condition of servitude." The thirteenth amendment made all persons free. The fourteenth amendment conferred citizenship on all native or naturalized persons, and on all persons equal protection before the law. The fifteenth amendment is more limited in its language. It merely for-



bids "the United States or any State to deny or abridge the right of citizens to vote"—not generally, but for a limited class of causes—"on account of race, color, or previous condition of servitude." Not all "citizens" are protected in "the right to vote," but only those whose right might be "abridged or denied" on account of one special class of grounds, "race, color, or previous condition of servitude." This class of grounds is not only special in itself, but it limits the effect of the amendment to a special class of "citizens;" those, namely, of the negro race, whether previously slave or free.

"The right to vote" of that class of persons had been "denied or abridged" in many, perhaps most of the States, and might be again in all. Hence there was an evil, real or supposed, to be remedied and prevented. There was in the country another large class of persons, of the white race, natives of Europe, who though declared to be "citizens" of the United States by the fourteenth amendment, had been or were still denied, or at least abridged of "the right to vote" in one or more States, and might be in all, on account of nativity or the want of a property qualification, or both. By the peculiar wording of the fifteenth amendment all this class was and is excluded from its benefits. All this makes it quite clear that the intent of the fifteenth amendment was single; to protect one race of people in the country, and only one, that known as "the colored race." To that class of citizens, therefore, its effects are confined.

Its operation upon the United States and the States, and the powers of Congress under it, are of course limited in like manner.

THE CONTROL OF THE SUFFRAGE STILL IN THE STATES, EXCEPT AS EXPRESSLY RESTRICTED BY THE FIFTEENTH AMENDMENT.

Another vital consequence follows also. The control of the subject of the suffrage remains in the States full and unrestricted, as it was before the fifteenth amendment, except only that they shall not "abridge or deny the right to vote" to persons of the African race on account of their "race, color, or previous condition of servitude." This will be apparent from a few considerations. Before the fifteenth amendment the control of the whole subject of suffrage had been conceded to and exercised by the States, under the Constitution, from the foundation of the Government. It was a right peculiarly cherished by the people of the States. The Republican party fully and solemnly recognized and affirmed all this, not once, but often; but most clearly and with the greatest binding force at its last presidential convention, though it limited the declaration to those States which did not go into secession. The law was that "the question of suffrage in all the loyal States properly belongs to the people of those States."

We have seen how guarded the amendment is in its language, how closely restricted to a particular class of "citizens" and of causes of abridgment or denial. Except as to that class of citizens and causes, the amendment leaves the whole subject of suffrage, including qualifications of voters, in the control of the States as fully as it had been for nearly eighty years before the amendment was thought of.

If the benefits of the amendment are restricted to a particular class of persons its prohibitions are also limited in their operation. Again, I call attention to the language employed:

"The right of citizens, &c., to vote shall not be abridged or denied by the United States, or by any State on account," &c.

THE AMENDMENT OPERATES ON THE UNITED STATES AND THE STATES—HOW IT OPERATES.

The prohibition is laid upon "the United States" or "any State." It is with these, as States, that in terms the amendment deals. Clearly its primary general operation is to make void any law of the United States or any constitution or law of any State which contravenes its provisions. This has always been held with regard to the many prohibitions in the Constitution of the United States upon the power of the States; as, for example, those in article one, section ten:

"No State shall, &c., coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any, &c., *ex post facto* law, or law impairing the obligation of contracts," &c.

This language is identical in legal effect with that of the fifteenth amendment:

"The right, &c., to vote shall not be denied or abridged by the United States, or by any State," &c.

In each case the State is prohibited from exercising certain specified powers.

In the case of State laws "impairing the obligation of contracts," the question has very frequently arisen as to the mode of operation of the constitutional prohibition. It has always been understood that the prohibition operated directly upon the State law and made it void. The remedy has always been asserted through the courts, State or Federal, to the entire satisfaction of all parties interested. Let me remind Senators that it has always been left there, even in cases where the controversy gave rise to great popular excitement. No such tremendous apparatus of coercion as is now brought forward was ever thought of.

The same remarks apply to laws of the United States in violation of express constitutional prohibitions. They have been disposed of by the parties affected through the ordinary remedial processes of the courts.

DOES IT OPERATE ON INDIVIDUALS?

Besides making void all provisions, constitutional or statutory, that violate it, does the fifteenth amendment go further? Does it operate

upon individuals, and authorize Congress to pass laws affecting them? The strongest argument that it does is found by Senators who so affirm in section two of the amendment:

"Congress shall have power to enforce this article by appropriate legislation."

But this is no argument. It is an effort to argue backward. The congressional power to enforce is one thing, and is a power to legislate merely. The constitutional provisions to be enforced are something entirely different. They are the principal thing, and must be found, if at all, in the first section of the amendment. They furnish the subject and the limit of the power to legislate. That power is merely incident and executory. It would exist in Congress without an express grant, just as much as the power to legislate in execution of the numerous powers given to Congress in section eight of article one would exist without the express authority at the foot of the section—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers," &c.

In short, a power in Congress to legislate in execution of constitutional provisions never can be held to enlarge those provisions. Otherwise, as such a power always exists in Congress, it can always be used to enlarge the Constitution.

The argument is that unless the amendment affects individuals as well as States the power to legislate given to Congress has nothing to operate on. It is not well founded. The amendment is in terms a prohibition, and is negative merely. Congress may well give to its brief words the sanction of positive law, declaring fully what provisions of constitutional or statutory law are void for conflict. It may also provide means in the Federal courts for the more easy and prompt vindication, by the civil remedies known to the law, of the rights protected by the fifteenth amendment. All this would be "appropriate legislation" under section two.

#### IF IT DOES, UPON WHAT INDIVIDUALS?

But, sir, the subject is new, grave, and difficult. Let me concede for the argument that the amendment authorizes Congress to legislate against individuals. What individuals, let me ask? Clearly, only those individuals who, as officers under State laws, judges of election and of registration, canvassers, and returning officers, for instance, have official relations to the State. What more, sir? You may say that the State can act only through her agents, that is, her officers; and that under the amendment you can deal with those agents. But you can do this only so far as they can claim to be the agents of the State. That is, only so far as, being officers of the State, they act under or by color of State laws, which "deny or abridge the right to vote" under the fifteenth amendment, but no further. If there is no such State law;

if, as in Massachusetts, the law has been for a long time in accord with the amendment; or if it has been changed to conform to it, as in New York, then it is not a case of a State acting either by a law or by her officers under her law.

#### IT DOES NOT OPERATE UPON PRIVATE INDIVIDUALS.

It is a case of a naked trespass by a private wrong-doer, of his own mere motion.

His case is within the jurisdiction of his own State, whose laws he has violated. To them his correction belongs. To them the remedy of the injured person must be left. Congress has no authority in such a case. It has nothing to do with it. It had not before the fifteenth amendment and it has not since. The amendment acts upon the State, or, if you will, upon the agents and officers of the State acting under State authority. It does not act at all nor in any way on the case of a private person committing a wrong out of his own head, not only without any authority from the State but in violation of its laws. To say of such a man's offense that it falls within the scope of an amendment which provides that "the right of a citizen to vote shall not be abridged or denied by the United States or by any State," is an absurdity in terms. If it is not, and if Congress can legislate for every such wrong, then it follows that any ruffian inflamed with drink who drives away a colored voter from the polls in the city of New York presents a case of the State of New York, despite all her laws in accord with the fifteenth amendment,— "denying the right of a citizen to vote on account of his race or color," within the amendment.

#### THE JURISDICTION OVER PRIVATE OFFENDERS IS IN THE STATES, NOT IN CONGRESS.

Can the force of nonsense further go? Yet if this is nonsense, as it clearly is, a great part of the Senate bill is neither sense nor law; for it deals with precisely such cases. An unlawful interference by any idle person with a voter of African race, may or may not be on account of his race. The State law does not aid you to ascertain, for it is in the voter's favor. Like any other trespass upon a personal right, it is a matter for the State jurisdiction, civil or criminal, or both, according to the facts. The police of the polls and of the elections generally, against private individuals violating the right of colored men to vote, belongs to the States. The fifteenth amendment has not given it to Congress. It leaves it where it found it—in the States.

No, sir; except perhaps in the single case of a State officer acting under a State constitution or law, Congress has acquired no right, under the fifteenth amendment, to deal with individuals who interfere with the right of voters of African race. You must leave to the States the correction of all such cases. You cannot say that a State will not do its duty. The question is as to your power to deal with the subject, and not



as to the supposed shortcomings of the State. But you have no more right to suppose such a thing of a State than you have of the United States. The States and the United States are in precisely the same category by the amendment. It says:

"The right, &c., to vote shall not be denied by the United States or by any State," &c.

Can the United States be trusted to provide and enforce the proper remedies, civil and criminal, against disorderly persons within Federal jurisdiction who violate the right of the citizen of African race to vote? If the United States can be, so can the States. No particle of distinction is made between them by the amendment. All this is ignored by the Senate bill in its efforts to grasp a general jurisdiction over elections in the States, under a claim of power to deal with every disorderly person who may take it into his head to molest a voter of African race.

Mr. CARPENTER. I should like to ask my friend from California a question. I wish to call his attention to the language of the fourteenth amendment, and ask him if, in his opinion, that does not authorize the passage of this Senate bill? If he will read the first three or four lines of that amendment he will come to the clause to which I am calling his attention.

Mr. CASSERLY. I supposed that the bill of the Committee on the Judiciary and the House bill were both of them bills to enforce the fifteenth amendment. Now, one of the most distinguished members of the Senate Judiciary Committee asks me whether there is not enough in the fourteenth amendment to justify the Senate bill? Why, sir, have we been discussing the Senate bill under a total mistake as to its object, or is this a change of front to meet the exigencies of the contest? Certainly the Senate bill is not a bill to enforce the fourteenth amendment; it is a bill to enforce the fifteenth amendment. Even if it were to enforce the fourteenth amendment, the suggestion of the Senator from Wisconsin does not help the matter. The first section of the fourteenth amendment is as follows; and I ask the attention of the Senator and the Senate to its language:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any laws which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

THE FOURTEENTH AND FIFTEENTH AMENDMENTS THE SAME IN THEIR MODE OF OPERATION.

The fourteenth amendment deals solely with the subject of citizenship and its rights, and with personal rights. It has nothing to do with the right to vote. In its mode of opera-

tion it differs in no respect from the fifteenth amendment. Like that, it deals with the States as such:

"No State shall make or enforce any laws which shall abridge the privileges, &c., of citizens of the United States; nor shall any State deprive any person of life, &c., nor deny to any person, &c., the equal protection of its laws."

Compare with this the language of the fifteenth amendment:

"The right, &c., to vote shall not be denied or abridged by the United States or any State," &c.

Both amendments are the same in their mode of operation. Both refer expressly to States. Both in terms operate on States as such. Both deal with the act of a State; with the constitution or law of a State; and if you will, for the sake of the argument, with an officer of the State acting under color of a State law or constitution against the prohibitions of either amendment. Under neither amendment has Congress even a color of authority to go any further and deal with private individuals violating either amendment out of their own heads. Under the fourteenth amendment it is extremely plain that the criminal or illegal acts of a private person in a State, in depriving another of his life by murder, or of his liberty by false imprisonment, or of his property by stealing it, all "without due process of law," could never give to Congress the right to interfere. Otherwise Congress might take to itself, under pretense of enforcing the fourteenth amendment, the entire criminal and civil jurisdiction in the States of offenses and trespasses against life, liberty, and property by private persons acting without any color of State authority.

All this is perfectly clear under the fourteenth amendment; and as the language of the two amendments as to the point in discussion is identical in legal effect, it is equally clear as to the fifteenth amendment.

The same construction, therefore, binds you as to that amendment. Under pretense of enforcing it you cannot, besides dealing with States and the agents and officers of States, legislate for the unlawful proceedings of individuals having no official character. You cannot thus draw to yourselves, as in a great degree you do in this bill, the entire jurisdiction, civil and criminal, of offenses against the right to vote of citizens of the African race, still less of citizens of the white race.

I thank the Senator from Wisconsin for calling my attention to the fourteenth amendment and to the flood of light which it throws upon our subject.

The comparison of the two amendments makes my ground as to the fifteenth amendment impregnable. It shows beyond any plausible or even rational doubt that the fifteenth amendment operates in the manner and to the extent I have stated, and not otherwise or fur-

ther. Primarily it operates on the United States and on the States, and makes void any law or constitution contrary to its provisions, which are for the protection of citizens of the African race in their right to vote. If it operates on persons it is only on those who are officers, and hence the agents of the State. In all other respects the subject of the suffrage and the right to it is untouched by the amendment, and remains as fully as before within the exclusive jurisdiction of the States.

Let me remark, Senators, that when you were framing these three amendments, the thirteenth, fourteenth, and fifteenth, and intended to act upon the individual wrongdoer without regard to the State or his relation to the State, you knew how to express that intention.

Thus, the thirteenth amendment is most general in its terms:

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction."

Under this language it might well be contended not only that State constitutions and laws to the contrary are void, but that Congress may deal with individuals, official or private, who violate the amendment.

So, also, in the fourteenth amendment, section four:

"The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned."

And, as if to make the distinction for which I insist perfectly clear, the amendment in the next sentence of the same section deals only with the United States and the States, and confines its operation to them or their officers:

"But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, or claims shall be held illegal and void."

It is needless to pursue further the argument as to the powers of Congress under the fifteenth amendment, and as to what is "appropriate legislation to enforce its provisions." I leave this part of the subject with a single observation. That observation is as to the difference between legislation by Congress to execute an express power exclusive in itself, and legislation to enforce a limitation of a general power exclusive in the States. In the former case Congress may claim a liberal construction in aid of its express exclusive power. In the latter case the State has a right to restrict Congress to the very terms of the prohibition. This is especially true when the prohibition affects the power of the State over a subject such as the suffrage.

This rule of construction is so manifest that we seem to weaken it if we cite authority in its support.

#### THE HOUSE BILL.

This brings me to say a few words of the House bill. Its first section is an improvement upon anything in the Senate bill, for it shows an intention to conform in a degree to the terms and scope of the fifteenth amendment. I will read it:

That any officer of the United States, or of any State, Territory, or district, and every officer of any city, county, town, township, borough, ward, parish, or hundred, in any State, Territory, or district, who shall by any official act whatever, or by the omission, neglect, or refusal to perform any official act of duty whatever, whether under color or pretext of any provision of any State constitution, or any law of any State, Territory, or district whatsoever, or of any local, municipal, or other law, rule, or ordinance, deny or abridge the right of any citizen of the United States to vote, on account of race, color, or previous condition of servitude, at any Federal, State, county, municipal, or other election, shall, upon conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment of not less than one year and not exceeding three years, or by a fine not less than \$500 nor exceeding \$5,000, or both such fine and imprisonment, at the discretion of the court.

The section deals with officers of the United States or of any State or political subdivision of a State. Amend it by inserting a few words, to include the case of a refusal to register or place upon the poll list, or to assess or to allow payment of a tax, whenever required before voting, and you have in this one section all that can with decency be claimed as within the power of Congress; all that is necessary to enforce the fifteenth amendment. You have a law that can be executed, and that is free from most of the odious, unheard of, oppressive details of the Senate bill. If the real purpose is to enforce the amendment, why not be satisfied with a simple, intelligible law that does not too grossly outrage the ideas, the traditions, and the habits of the people? Why undertake to force upon them a law that is strange, harsh, obscure, irritating; a law which by its very severity will defeat itself? It must do so, because of the good providence by which men are better than bad laws. Thus it is that every day the recklessness or the tyranny of the law-making power is tempered by the native humanity and goodness of those who administer the law, whether as judges, as jurors, or as executive officers, through every degree of authority. Let us thank Heaven for those inborn, inherent equities of the human heart, but for which the excesses of Legislatures would make government an insufferable torment.

#### HOUSE BILL ALSO DEALS WITH PRIVATE PERSONS.

After the first section, I apprehend, none of the House bill is admissible, because as to all the rest it falls more or less into the vice of the Senate bill, by attempting to deal with private persons bearing no relation to the State, not



acting or claiming to act under any law or authority of a State, but under the promptings of their own evil passions, and, as the lawyers say, of their own mere motion. I have already shown how utterly unconstitutional and invalid all such legislation is. I shall not go over the same ground now. Disorderly and violent, such persons are not the State. It is sheer absurdity to pretend it. They break the peace of the State; they break its order, which is its highest law. Their hands are raised against the State at least as much as they are against the fifteenth amendment. Leave them to the State. It will maintain her authority and correct them, as it has done heretofore from the beginning.

NO PRETEXT IN THE PRESENT OR THE PAST FOR THE PROPOSED BILLS.

I have shown you the wonderful general acquiescence throughout the country in the working of the fifteenth amendment. There is, therefore, in the present nothing whatever to call for or to excuse the unexampled legislation proposed by the Senate bill, and, though in a much less degree, by the House bill. Search all the past history of your Government. You will find there no decent pretext for your penal bills. You will find at every step the strongest arguments against them. Will any Senator gainsay this?

THE MANY CONSTITUTIONAL PROHIBITIONS ON THE STATES HAVE ENFORCED THEMSELVES FOR EIGHTY YEARS.

For more than eighty years you have had in the Constitution a great array of prohibitions, express or implied, on the powers of the States. How have they been observed? It is to the honor of the American people, as a law-abiding, intelligent people, foremost in the ranks of civilization, that almost without a serious exception, without one that I now recall, those great prohibitions, though trenching often upon cherished rights, interests, and convictions of the people of the States, have been observed exactly, cheerfully, with the fullest good faith. Now and then, here and there, opposition may have shown itself; but on the whole the result has ever been as I have stated. When or where has any party in the country proposed for the enforcement of those prohibitions the harshest penal legislation by Congress, such as that now before us? No such instance has been mentioned by any Senator.

By the same law of order which seems intuitively to regulate the movements, great or small, of American life, moral, social, and political, the movements also of that complex but complete organism, the States and the United States—the States and the people of the States moved in harmonious obedience to the Constitution. The power of the State, so far as it acted upon subjects within the prohibitions of the Constitution, acted to maintain and ex-

ecute the prohibitions. If at times it happened that a State made a law impairing the obligation of contracts against the express prohibition in the Constitution, or trenching on the exclusive power of Congress to regulate commerce against the implied prohibition, the State had her courts always open to decide the question, if question was made. Whatever the decision there or in the courts of the United States, it was promptly and peacefully obeyed.

The history of the constitutional prohibitions on the powers of the States, including the thirteenth and fourteenth amendments, is that Congress has never felt called on to enact laws to enforce the prohibitions; is that there never was any need for such laws. Why commence now, and with such laws—laws worse than the code of Draco; for, besides being most harsh, they are in defiance of the Constitution, which is your only source of power to make laws at all? What is the public exigency for such legislation? Are the American people so changed from what they were; are they so transformed that in the twinkling of an eye they have lost those rooted instinctive habits of order, and obedience to all the prohibitions, express or implied, of the Constitution which have swayed them for eighty years? What has happened to them that now, for the first time in their history, in the midst of peace, they have broken away from that allegiance of the heart, that consent of the will, which are the great moral forces on which our whole system of self-government, both in theory and in action, must forever depend? These are the elements drawn from man's inner nature, first appealed to and employed as a power in government by the men who framed the fabric of American freedom. Upon them you must rely at last for the enforcement of your laws, the observance of your Constitution, the maintenance of your Government; for even the perpetuity of your liberties! Without them—still more, against them—how futile are armies and navies; how impotent all the means and appliances of physical coercion that despotism ever invented!

Whenever, Senators, you refuse to rely on the moral forces that live within the breast of the American citizen you give up your American freedom. Your next step must be, and it will be, to a government which, whatever its form, will be in fact the most despotic, the most expensive, the most oppressive in the world. This must be so; because, having cast aside the guiding principles of government as settled by eighty years experience, your arbitrary sway will have none of the checks of usage or fear that curb the despotisms of the Old World. If heretofore your Government has been strong at home and formidable abroad; if it has been economical; if it has mastered the mightiest tasks of war or peace, it was because it stood, firm-set and sure, in the

unbought allegiance and free consent of your people. There you had a reserve of forces equal to every emergency. There you found your Army and your Navy. Elsewhere you would have looked for them in vain.

#### THE DIFFERENCE BETWEEN FREE GOVERNMENT AND DESPOTISM.

The cardinal difference between free America and any despotism that now exists or has ever existed, if summed up in the fewest words, lies in this: the despot does not trust his people: America trusts hers. Most earnestly do I hope that this may ever be true of her. But I know it cannot long be true of her under a policy of which such laws as that proposed by the Senate Judiciary Committee are a part. Hitherto the Government and the institutions of the United States have rested upon the internal forces of the conscience, of the mind, of the heart, of your people. There they have rested steadfast and secure. The despot relies on wholly different principles of government. He relies not upon the better forces of man's nature, for he knows they are not with him or with his government. He dares not trust them. He relies upon external forces, upon bayonets and cannon, upon the dungeon and the scaffold. These forces are as costly as those employed by the American system of government are economical; and they are infinitely less effective and reliable. Every day in this stage of the world's progress they are more and more certain to fail the ruler who depends on them in the hour of his necessity.

#### A CLOSING APPEAL—A NEW DEPARTURE IN GOVERNMENT.

I appeal to the Senators of the majority on this floor. Can they take no lesson from the experience of other lands? Are history and her warnings all in vain? If I have at all comprehended the Senate bill now before us, there is more evil than I can show forth in the system of legislation on which you are now entering; for, be assured, this is but the first act. Bad measures in government inevitably compel other worse measures to support them. Pause, Senators, before you enter upon a policy of administration which is not only a departure from the whole policy of the country since the Union was formed, but is an abandonment of the American idea of government.

What I said in the beginning I say again in the close. There is nothing in the condition of the country or the temper of the people anywhere in respect to the fifteenth amendment to justify or excuse the Senate bill.

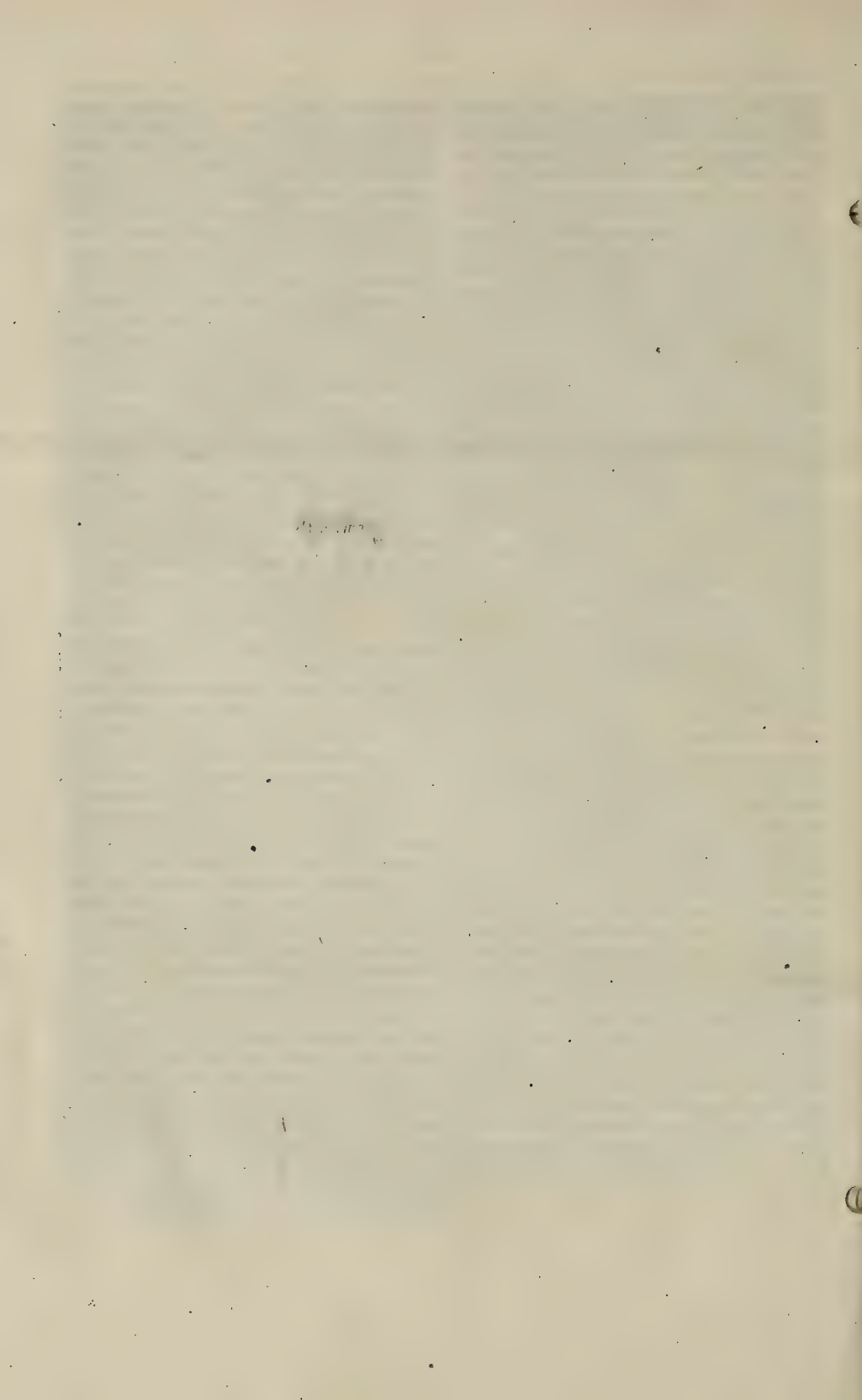
When you consider the changes made by the

amendment in the system of suffrage which underlies our institutions; how deep was the shock which it gave to the convictions or even to the prejudices of a large portion of your fellow-citizens; how profoundly and sincerely it was deplored as a breach in the foundations of your Government, as at the best a tremendous experiment of most doubtful issue—when you consider all this, I say it is a fact most honorable to the great mass of people who opposed the amendment, that they gave to it in its very first operations an acquiescence so prompt and practically so universal. What more overwhelming demonstration could you have of the inherent, almost instinctive disposition of the American people to obey the law; and of all I have said when I told you that there was your true reliance, your real source of power for the enforcement of your Constitution and laws?

But if you are not satisfied with all this; if to meet a party exigency in this and coming years you must have a statute of Congress, why not have one short, simple, within your clear powers, and withal as little as possible in conflict with the ideas and traditions of the people? Such a law would have met slight or no opposition here. It would enforce itself, without your unheard-of apparatus of pains and penalties—your Army and Navy at every polling place. Why will you insist on an act which in its largest operations is clearly unconstitutional under the Constitution as you yourselves have made it by amendment? Is your habit of breaking the Constitution so fixed that at the first opportunity you hasten to lay violent hands upon your own amendment? Like Saturn of old you are hungry to devour your own children as soon as they are born.

I shall not say a word in reply to the speech of the Senator from Nevada [Mr. STEWART] on the Chinese question in California, made by him after I arose, when I yielded to him to say a word in reply to the Senator from Oregon, [Mr. WILLIAMS.] That is a question of considerable dimensions, which, as even he seems to be conscious, is by no means an easy one to deal with. I trust that the Senate will at this time confine itself to the subject which it has before it—the consideration of the bills to enforce the fifteenth amendment. If there is to be a law for that purpose, then it is very clear that the first section of the House bill so amended as to provide for the case of registration and the listing upon tax and poll-lists previous to the election, covers everything you have any right or color of right to deal with under the fifteenth amendment or the Constitution; and all and more than is required to enforce the amendment in its letter and spirit.





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# The Radical Scheme for the Campaign of 1872.

"Outrages in the South" since 1865 the Pretext for Destroying all Local self-government within the States; for giving the President Despotic Powers; and for more Civil War: and thus Controlling the Elections.

SPEECHES AND REMARKS

OF

EUGENE CASSERLY,

OF CALIFORNIA,

DELIVERED

IN THE SENATE OF THE UNITED STATES,

IN VARIOUS DEBATES,

COMMENCING JANUARY 18, 1871, AND ENDING APRIL 19, 1871.

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1871.





## The Radical Scheme for the Campaign of 1872.

### The Programme Opened.

A NEW INVESTIGATION OF THE SOUTH.

On January 18, 1871, in the Senate, Mr. MORTON, of Indiana, offered the following resolution:

"Resolved, That a select committee of five Senators be appointed, to which shall be referred the documents and papers recently laid before the Senate by the President in reference to the condition of the southern States, and that such committee have power to employ a clerk and stenographer, to send for persons and papers, administer oaths, and investigate the matters referred to in the documents and papers aforesaid; and the truth or falsehood of the crimes and outrages of a political character alleged to have been committed in the southern States; and whether there be in those States security for persons and property."

The attempt to take the subject from the Judiciary Committee, which had usually had charge of it, and to hand it over to a special committee, naturally excited the suspicions of Democratic Senators; especially as the "documents and papers" sent in by the President were made up mainly of old charges running back to 1866, and even to 1865. Mr. CASSERLY moved to amend by referring to the Judiciary Committee. He spoke as follows:

Mr. CASSERLY. Mr. President, it is most unfortunate, though unhappily not at all unusual in this body, that an attempt should be made by Senators now to forestall and fore-judge this whole subject of the inquiry proposed before the papers have been opened for the consideration of the Senate.

THE NEW MOVEMENT DESIGNED FOR PARTISAN PURPOSES—STALE CHARGES REVIVED.

I think we all understand this subject in its present phase. There is no man of any candor here who, whatever he may forbear to say in

this public presence, would hesitate to admit elsewhere that the result of the special committee to be constituted, in reference to the papers now upon the table, is already a fore-gone conclusion. Why, sir, is it not too palpable for anybody's doubt or contradiction? We had the whole subject here at the last session. Within a year the most distinguished men of the majority here, including the Senator from Indiana, [Mr. MORTON,] who has offered this resolution, exhausted themselves and the subject, I will not say for the purpose, but with the result, of fanning into new life, as far as they could, the embers of a great civil war, the embers of sectional conflict and hate. And, sir, was there ever anything that failed so signally as did that labored endeavor, whether you consider this body and the result here, or the result before the people at the recent elections? The mass of the charges, if I remember correctly, upon which the Senator from Indiana descanted then with so much vehemence, with so much power, I regret to say, considering the evils of his course, were stale charges, charges that had been gone over and over again until holes were worn through them. Certainly they were charges a great many of which were as old as 1865. Are there any new charges here to-day? If there are, why has not the country heard of them? What figure have they made in the press? Whence have they been dug up?

THE FLOOD-GATES OF HATRED TO BE REOPENED.

Sir, I shall regret such a course here; I shall regret any proceeding which will open anew the flood-gates of hatred, even although that opening may serve to stay the doom of a perishing party. Here and now I say it, there is no party in this country, and there never was, which is worth so much to the country as to compensate in the smallest degree for the renewal of sectional and fratricidal ani-

mosities like those of the last ten years. I am attached to the political party to which I belong because of its excellent principles, of its great services in the past, and its great capacities for usefulness in the future. But if even that party could not be maintained except by arraying one part of the country against the other, except by slandering and maligning a part of the Union in order to fan into fury again the flames of civil hatred, well-nigh extinguished by time and the better sense of the people, I would say, let it perish, let it go down; the best thing for it is speedy burial.

I care not how great any party may be in its pretensions or its power, I care not how distinguished a leader in that party a man may be, I say that party is an evil, and that man is mischievous, when he or it seeks to revive in the country the bloody memories of the past, or to fix upon a great portion of our people a brand of disgrace before the world as savages scarcely fit to exist, and to keep upon them at home the badge of a galling inferiority.

THE ACCUSATIONS AND THE POLICY OF THEM ALIKE  
FALSE—THEIR REAL OBJECT.

I do not believe either in the accusations or in the policy that prompts them. I can well understand that there are in the South disorderly and violent men. They are the natural fruits of the war and of your own misgovernment. They are but a handful, easily dealt with by any Government dealing with them in the right spirit. But what I do not believe is, that the mass of the southern people are the barbarians they have been represented to be, over and over on this floor, by prominent Senators of the majority. It would be a great deal better for the dignity of this body, for the peace of the country, for the good standing of the American people before the enlightened judgment of Christendom, to say at once what is the object of all this exaggerated outcry of outrages in the South; of all this hollow parade of investigations—far better to come directly to the point like men, and let it be understood that no one of the States lately in insurrection will be permitted to be at peace until and so long as she sends to the Senate and to the House of Representatives men whose party politics shall be acceptable to the Radical party majority in each.

Let that be understood. Then will there be no need any more for the periodical performances here, for the demonstrations of passion, for the torrent of studied vituperation poured out against the people of the South. If I thought the tenth part of such vituperation could be true, I should mourn over the land that could nurse such children as inevitably lost. What a gain such a change would be for the proprieties of this body and for the general credit of the American people! The

proceedings of to-day show that the old evil spirit is still strong. I sincerely regret it; none the less that this new movement is wholly without provocation.

OUTRAGES IN THE SOUTH EASILY MADE OUT.

Nobody knows better than the members of this Senate who have been longest here how easy it is anywhere throughout that southern land, upon which, from this Capitol, Congress frowns with aspect so malign—with its whole system of labor disorganized, with its social system broken up from the very foundations, filled with ruined men, with all the rankling animosities left by a great civil war, as well in the victor as in his victim—I say Senators know how easy it is throughout such a land to obtain from idle, ignorant, malignant, or suborned witnesses just as much testimony as is wanted here for the purpose of blackening the character of the people of the southern States, exasperating the dominant party, and preparing the way for fresh operations in the line of “reconstruction,” or of Radical ascendancy.

I do not doubt that in parts of the South there are troubles. Considering the terrible ordeal, first of the war and then of your misgovernment, it would be wonderful if there were not. But why exaggerate them; why turn them into capital for a party?

Why, sir, in the county of Westchester, New York, during the war of the Revolution, and for a considerable time afterward, there were enormities perpetrated, as we know from history, as great, if not greater, all things considered, than any that have been charged upon the people of the southern States. Between the wretched banditti known as “Skinners” and “Cow Boys” that hung upon the skirts of the two parties, the Patriots and the Tories, there was constantly raging a war of robbery, of rapine, of murder, so that whatever side gained the ascendancy anywhere the other side had immediately to fly.

TIME AND PATIENCE ALL THAT ARE NEEDED.

Sir, we ought to have some patience with the people of the South. The terrible evils of such a civil war as we have gone through, its disorders and its rancors, are not to be allayed in a day. For the sake of that people and of the country I regret that the question has been turned into one of party ascendancy in the Government, but especially in Congress. But for that Senators would have patience. But for that we might safely trust to the natural goodness of men, here and elsewhere, to be a little patient with a people so sorely tried, to give time for bitterness to depart, for disorder to subside, for society to recover its healthful and normal action. But, sir, there is nothing so destructive of good government as partisan zeal heated beyond a certain point. When the



question is of the maintenance of a party, the maintenance of a party ascendancy in the country, and Senators have persuaded themselves, rightly or wrongly, that the party and its ascendancy are indispensable to certain principles which they regard as not merely salutary, but essential to what they call "the life of the nation," we can all see how men otherwise capable of impartial judgment, otherwise accessible to reason and to justice, to say nothing of generosity, are upon such an issue deaf to them all.

It was not at all my purpose to discuss the general merits of this question. The Senator from Massachusetts, however, who spoke a while ago, [Mr. WILSON,] opened the discussion by a declaration in advance of what would be his judgment upon the contents of the papers sent here by the President. The Senator from Alabama sitting directly in front of me [Mr. WARNER] followed in the same strain, from whom, if I recollect aright, at the last session we heard a speech on this very subject conceived in another, and, I say it with all due respect, in a more wholesome, a nobler, and wiser spirit. I could not, for one, allow such statements to go to the country without in some way noticing them and replying to them.

#### GENERAL DEFAMATION OF THE COUNTRY A PUBLIC WRONG.

I think, sir, we shall save a great deal of time, we shall avoid a great deal of bad blood, and a great deal of what is called in plain speech "washing our dirty linen in public," before the face of the whole world, if we can only bring ourselves to recognize openly what everybody understands in reference to all these proceedings for inquisition after inquisition into the condition of the States of the South.

If the elections in the South which resulted unfavorably to the dominant party in either House of Congress are to be set aside as a party necessity, let it be done manfully and above board; but let not the Senate, in addition, go into the business of defaming the country. You do defame the country when you blast the character of any considerable portion of its people before the world. It is idle for the rest of the country to hope to escape the judgment of history, a judgment which is apt to be in the general, and justly so. When the most prominent men of the dominant party of the United States for the last ten years announce to the world over and over, as their deliberate judgment, that a large portion of the territory of the United States and a large portion of the people of the United States are in a condition little better than barbarous by reason of the disorders there, the want of security for life, limb, property, or rights of any kind,—they inflict a grievous wound upon the character of the whole American people.

#### UNUSUAL COURSE PROPOSED—EVIL RESULTS TO THE COUNTRY.

I have but a word to add as to the proposed proceeding. No good reason has been given why this resolution has not taken the usual course, and gone to the Judiciary Committee, which has thus far always and so often acted upon this subject. I know of no cause why that committee should now be treated as if it were distrusted. The Senator from Massachusetts has told you that the committee is extremely full of business. The Senator from Alabama thinks this question so very important that the committee appointed to investigate it should be excused from all other business. Now, sir, what has occurred since we were last here to create such an enormous amount of business on this well-worn and thoroughly-discussed subject of outrages in the South? What could have occurred to make it now, for the first time, a burden too great for the Judiciary Committee, or to render necessary this extraordinary proceeding of the appointment of a select committee, or to justify the recommendation of the Senator from Alabama, that such committee should be excused from all other business?

Mr. President, all this bodes little good to the interests or the peace of the country. It is portentous of more evil, of fresh mischief. I would that Senators could see, as I do, how much more patiently the country would bear the rule of their party, pernicious though it be, now and in the future, if it could be combined with a united people, with a harmonious people, with a people as to a great part of whom the leaders of the dominant party did not feel it their duty to exhaust themselves in denunciations, in schemes of injury and irritation.

Mr. CASSERLY was followed by several Radical Senators in the effort to repel the charge of improper motives in the movement for the special committee of investigation. At intervals Mr. BAYARD, of Delaware, and Mr. THURMAN, of Ohio, spoke on the same side with Mr. CASSERLY.

The amendment of Mr. CASSERLY was lost, and the resolution as offered by Mr. MORTON was adopted.

The committee, as appointed by the Vice President, was Messrs. SCOTT, WILSON, CHANDLER, RICE, and NYE, Radicals; Messrs. BAYARD and BLAIR, Democrats. Of the Radicals, Messrs. WILSON, CHANDLER, and NYE had, in the debate on the motion to raise the committee, already prejudged and decided the whole case in partisan speeches of marked recklessness.

## THE COMMITTEE TO SIT IN SECRET.

In the Senate, on March 1, 1871, while the special Committee on "Southern Outrages," so called, was still sitting, Mr. HAMLIN, of Maine, offered a resolution:

"Resolved, That the select committee to investigate alleged outrages in the southern States be, and the same is hereby, continued, with full authority to prosecute their investigations during the first session of the Forty-Second Congress."

The following, among other proceedings, took place:

Mr. CASSERLY. I move to amend the resolution by adding "and that the proceedings of the committee shall be public." I offer that amendment for this reason: I do not mean to reflect on anybody; but it is quite obvious that the privacy of the committee has not been observed, and that *ex parte* publications of a portion or perhaps the whole of the proceedings have been had; reports have been made in the newspapers as to the testimony. Now, sir, what proceedings you cannot keep private had better be made public.

By making the proceedings public you accomplish two good ends: you prevent the publication of *ex parte* and distorted statements, garbled extracts, and other injustice in respect to the proceedings. In the next place, if any man or any set of men, if any community is falsely charged by any portion of the testimony taken, he or they will have notice of the charge and be at liberty to repel it. On both those grounds, it seems to me, the sessions of this committee, if continued, as I suppose they ought to be, if the committee is to stand at all, should be held in public. It is more in accordance with our ideas of the functions of a court; and this committee is really a court, though subordinate to this body, to receive testimony and to report it here and the effect of it for the action of the Senate.

Mr. BLAIR. I think with the Senator from California that there ought to be no secrecy in regard to the testimony taken before this committee, and for the simple reason, as he has alleged, that *ex parte* statements have gone forth to the public, doing great injustice to large communities; and according to the publication which I brought to the attention of the Senate the other day, those *ex parte* statements were used in the Republican caucus to produce hostile legislation against communities.

There is another reason why the proceedings should be public. If witnesses testify inculcating large communities, it would give notice to these communities, and they would produce witnesses here to disprove the allegations made, produce rebutting testimony, and also produce witnesses as to the character of

the men who so testified. It is a principle of law that individuals who are assailed in their character or in their rights are allowed a hearing, are permitted to confront their accusers, and produce witnesses in their defense. In this proceeding a secret inquisition is had upon whole communities.

Mr. HOWARD. I ask for the reading of the amendment.

The CHIEF CLERK. The amendment is to add to the resolution "and that the proceedings of said committee shall be public."

Mr. HOWARD. I hope that amendment will not be adopted. It is entirely unusual. Why not leave the whole thing to the committee themselves? The joint Committee on Reconstruction were under no such restrictions. Why undertake to trammel the hands of the committee and say their doors shall be open perpetually to the intrusion of persons who may or may not have an interest in their inquiry? Why allow a mob to rush into the committee-room to disperse the committee at will? Why say to the committee, "You shall admit A, B, C, D, any number, and of any character whatever?" Does the Senator from Missouri intend to disperse and break up the committee by introducing a mob?

Mr. CASSERLY. Mr. President, the Senator from Michigan asks whether by this amendment it is intended to break up the committee. If the Senator from Michigan had not asked that question seriously, as is evident from his manner, it would be regarded as a colossal joke. What is the danger of breaking up the committee if its sessions should be open? Has any one seen any number of loose, disorderly characters hanging about the doors of that committee-room at any time? I imagine there have been none seen more formidable nor more dangerous nor more ill-looking, or I might say so ill-looking or so dangerous, as the witnesses produced there on the part of the Senator from Michigan and his party. Unless they break up that committee, I am not aware of anybody else from whom the slightest danger is to be apprehended.

The Senator has practiced in courts all his life, and he speaks of a proposition to have the meetings of this committee open to the public as "a restriction!" Why, sir, in addition to the confused notions of government which prevail here, we now have confused notions of law and of the administration of it, and still more confused notions of the English language. To open the doors of a court is a restriction! To open the doors of a committee is a restriction! Courts of law in common-law countries, administering criminal justice, have sat with open doors since the time whereof the memory of man runneth not to the contrary. It is the glory of the common law that its criminal courts have not been star cham-



bers nor secret inquisitions; and the Senator from Michigan, a man eminent in his profession, now speaks of that as "a restriction!" No, sir: the "restriction" is in having the doors of this committee closed, in permitting all sorts of testimony to be adduced there without any knowledge of it on the part of those most immediately affected in their dearest rights.

If the Senator from Michigan is alarmed for the personal safety of any member of the committee, I will very cheerfully add to my amendment that the Sergeant-at-Arms be directed to furnish whatever force is necessary to preserve order in the committee during its public sessions.

The amendment of Mr. CASSERLY was rejected, and the original resolution was adopted.

"OUTRAGES" RESOLUTION OF SENATOR SHERMAN.

In the Senate on March 16, 1871, Mr. SHERMAN, of Ohio, introduced the following resolution:

*"Resolved,* That as organized bands of desperate and lawless men, mainly composed of soldiers of the late rebel armies, armed, disciplined, and disguised, and bound by oaths and secret obligations, have, by force, terror, and violence, subverted all civil authority in large parts of the late insurrectionary States, thus utterly overthrowing the safety of person and property, and all those rights which are the primary basis and object of all civil government, and which are expressly guaranteed by the Constitution of the United States to all its citizens; and as the courts are rendered utterly powerless, by organized perjury, to punish crime, therefore the Judiciary Committee is instructed to report a bill or bills that will enable the President and the courts of the United States to execute the laws, punish such organized violence, and secure to all citizens the rights so guaranteed to them."

On March 18 he supported his resolution in a long and very inflammatory speech. The resolution and speech were fitly answered by Mr. BAYARD, of Delaware, in his speech on March 20, 1871; by Mr. BLAIR, of Missouri, April 3 and 4, 1871; Mr. STEVENSON, of Kentucky, March 30, 1871; and other Democratic Senators. Subsequently Mr. SHERMAN modified his resolution so as to read as follows:

*"Resolved,* That as organized bands of lawless and desperate men, mainly composed of soldiers of the late rebel armies, armed, disciplined, and disguised, and bound by oaths and secret obligations, are proven to exist in the State of North Carolina, and have, by force, terror, and violence, defied civil authority in that State, and by organized perjury have rendered the courts powerless to punish the crimes they have committed, thus overthrowing the safety of person and property, and the rights which are the primary basis of all civil government, and which are guaranteed by the Constitution of the United States to all its citizens; and as there is good reason to believe that similar organizations exist, and have produced similar results in many parts of the late insurrectionary States, therefore the Judiciary Committee is instructed to report a bill or bills

to enable the President and the courts of the United States to execute the laws, punish and prevent such organized violence, and secure to all citizens the rights so guaranteed them."

PARTY, NOT PEACE, THE OBJECT OF THE SHERMAN RESOLUTION.

On April 5, 1871, the final vote on the resolution was taken. The following is a part of the proceedings.

Mr. THURMAN, after objecting to the assumptions of the resolution, said:

It has been said here that it would be a good thing, and tend to produce peace in the South, if this body, by a unanimous vote, should show that it was disposed to exercise all the powers properly vested in it by the Constitution to produce peace in the country. Well, sir, if that is desired by Senators they can have a unanimous vote very easily. All they have to do is to put this resolution in a proper shape, and they can have the unanimous vote, I think I may venture to say, of this Senate; and if it is not put in a proper shape, what is the reason? There can be only one reason, it seems to me, why it is kept in a shape which is obnoxious to some of the Senators; and that is that it may not receive a unanimous vote, that it may go abroad to the country that the Democratic Senators on this floor are opposed to proper legislation. I wish to say that if the resolution is persisted in in its present form—and I for one shall not be able to vote for it in that form—that fact will furnish no reason whatsoever to charge me with being any friend, any aider, any countenancer of disorder anywhere in the Republic. But that we may have this unanimous vote, that we may let everybody know who violates the law that to the full extent that we have constitutional power to interpose we will interpose. I offer, as a substitute for the resolution of my colleague, that which I send to the Secretary's desk.

The VICEPRESIDENT. The Senator from Ohio [Mr. THURMAN] moves to amend the resolution of his colleague [Mr. SHERMAN] by striking out all after the word "Resolved," and inserting what will be read.

The Chief Clerk read the words proposed to be inserted, as follows:

That the Committee on the Judiciary is hereby instructed to inquire what are the constitutional powers of the Federal Government to prevent, suppress, or punish acts of violence or combinations of individuals to perpetrate such acts committed within a State, and to report by bill or otherwise.

A TEST OF RADICAL HONESTY IN THE "OUTRAGES" BUSINESS.

Mr. CASSERLY then said: Mr. President, I am gratified that the Senator from Ohio, [Mr. THURMAN,] speaking for himself, and also, as far as he could, for the Democratic Senators



upon this floor, has offered the amendment just presented by him and has made the remarks with which he accompanied it. I believe he spoke the views of Democrats everywhere. For myself, I do not need defense, either by my own words or by the words of another, from any imputation or suspicion of favoring, in any degree whatever, illegal, and, still less, secret organizations formed to violate the law. The best convictions and testimonies of my life are against them. There is no Senator on this floor who has given a stronger pledge of his fidelity to law and order than I have given. No Senator, no matter what his purposes, however proper and upright, has risked any more than I have risked, in the State which sent me here, in opposing to the best of my ability, at whatever peril to myself, to my worldly welfare, my personal friendships, or to the happiness of those that were dearest to me, the most formidable illegal organization, in the numbers and character of its members, in its power and duration, which this country ever saw since the days of the whisky rebel lion in Pennsylvania. Consequently, sir, I shall not be suspected by any one who knows me of any leaning or indulgence toward any Ku Klux or other illegal societies, so far as they exist in any southern State. I am against them there, as I am against them everywhere. I am ready to go as far as the farthest, within the legitimate lines of our action, under the Constitution, to put them down and to punish all those who are members of them or who aid and abet them. I say this without exception or reservation. I say it in the interest of peace, union, and good government in the southern States and in the country at large.

**THE ALLEGED OUTRAGES A GROSS EXAGGERATION OF THE FACTS.**

But that is one thing. It is quite another thing to be asked to vote for the resolution of the Senator from Ohio, with all its extraordinary assertions and extravagant assumptions. I have been examining the report of the majority of the select committee on the alleged outrages in the South. I have been reading the testimony as faithfully, as carefully, and, I believe, as conscientiously, as though I had to pass upon it in the capacity of judge of a court. I say that because I know of no higher responsibility. I now say that, after having so gone through the greater part of the testimony—enough, I am sure, to enable me to get the drift of the whole—I am amazed at the sweeping and unjustifiable language of this resolution. Does any Senator regard it for the honor and welfare of the United States to say of one of the principal States of the Union, one of the "old Thirteen," one of the ancient settled communities of the country, that "organized bands of lawless and desperate men"

have "by organized perjury rendered the courts powerless to punish the crimes they have committed?" That would be a most woeful fact if it were true; a fact most discreditable to the American name and discouraging to the friends of republican institutions everywhere. Even if it were true to the letter, which I do not at all admit, but earnestly deny, I should greatly doubt the propriety, the good sense, the patriotism of proclaiming it in this solemn and authentic manner, by the voice of the Senate, before the whole world. But, sir, I rejoice to say, and I do rejoice from the very bottom of my heart, that there is no decent ground for an accusation so bitter and unqualified against the State of North Carolina; and not only against her, but against nine or ten other States of the Union.

**THE TESTIMONY IN THE REPORT.**

When the testimony comes to be examined, taken though it was under every disadvantage to North Carolina, before a committee which sat in secret and closed the case before the defense was half heard—if it ever is examined as it should be by Senators who are disposed to side with the report of the majority—it will be found that there is absolutely no testimony worthy of the name against the other States, and that in North Carolina the field of operations of these lawless men is limited to a few counties. It will be found that it is not true of all the judicial districts in North Carolina, under any circumstances whatever, to say either that bands of bad men "by organized perjury have rendered the courts powerless" to punish the crimes they have committed, or that in any other manner the law is powerless to assert itself.

In the first place, the disturbances are confined to not more than eight counties out of ninety-one counties of which the State is composed.

In the next place, in several of the judicial districts order reigns and the law is thoroughly administered. I think of two districts at this moment; I have no notes of the testimony now at hand to use. In two districts, and those large ones, the Republican judge of each district testified before the committee that so far as his district was concerned the law was thoroughly vindicated. Why did not the Senator from Ohio, [Mr. SHERMAN,] himself so much identified with the Government of the country and with its honor and character, read that testimony? Why did he not give to that "old North State," which certainly bore her full part in the perils and the trials of our Revolution, and was for more than eighty years so identified with what is best in our history—why did he not give her the benefit of that testimony in her favor? Why did he, recklessly, as I must believe, place upon record, indorsed by

his name, and now ask to have this Senate indorse by its adoption, his most injurious and unnatural accusation, that lawless men "by organized perjury have rendered the courts of the State powerless to punish the crimes they have committed"?

#### AN APPEAL TO THE SENATE.

I appeal to the Senator, I appeal to his associates of the majority on this floor. Let us not put upon perpetual record this condemnation of ourselves before the world. Let us at least treat the case as still an open one upon the evidence. Let us send it to the Judiciary Committee of this body without instructions which tie their hands, and which, as the instructions of this Senate, compromise so gravely the credit, the character, and the good name of the American people at home and abroad. It is from that ground I speak. I say not a word of your party questions. They are not in my thoughts. They have nothing to do with so great a subject as the honor of the American people and the good name of our institutions, so deeply affected by such a resolution as this. In the face of such considerations, I can hardly speak of the want of sense and patriotism in driving away the minority from uniting with you in the effort to restore the peace, order, and security which you say is so much needed in North Carolina and elsewhere in the South.

In the half hour allowed to the minority I can say but a word more in justice to others. Of course, sir, I fully agree that the important points for us to ascertain are, first of all, what is the occasion for our interference; and next, how far can we interfere within the limits of the Constitution with the greatest effect? It does seem to me that those two questions should not be forejudged by the passage of a resolution couched in the terms so unfortunately employed in the resolution of the Senator from Ohio, [Mr. SHERMAN.]

I trust the amendment of the Senator from Ohio nearest me [Mr. THURMAN] will be adopted.

The amendment was rejected—yeas 13, nays 38; as follows:

YEAS—Messrs. Bayard, Blair, Casserly, Cooper, Davis of Kentucky, Davis of West Virginia, Hamilton of Maryland, Kelly, Saulsbury, Stevenson, Stockton, Thurman, and Tipton—13.

NAYS—Messrs. Anthony, Boreman, Brownlow, Caldwell, Chandler, Clayton, Cole, Conkling, Corbett, Edmunds, Fenton, Ferry of Michigan, Frelinghuysen, Hamilton of Texas, Hamlin, Harlan, Hitchcock, Howe, Logan, Morrill of Vermont, Morton, Nye, Osborn, Patterson, Pool, Pratt, Ramsey, Rice, Sawyer, Scott, Sherman, Spencer, Stewart, Sumner, West, Wilson, Windom, and Wright—38.

#### ANOTHER PLEDGE OF GOOD FAITH BY THE DEMOCRATIC SENATORS.

The very proper and just amendment of Mr. THURMAN having been rejected, a further effort

was made in the same debate by the Democratic Senators. Mr. STOCKTON, of New Jersey, offered as an amendment to the whole resolution of Mr. SHERMAN the following:

*Resolved*, That the Judiciary Committee is instructed to report a bill or bills to enable the President and the courts of the United States to execute the laws, punish and prevent organized violence, and secure to all citizens the rights guaranteed to them by the Constitution of the United States.

On motion of Mr. EDMUNDS, of Vermont, this resolution was amended so as to read:

And secure to all citizens the right of life, liberty, and property, and the equal protection of the laws guaranteed to them by the Constitution of the United States.

Mr. STOCKTON's resolution, as amended, was rejected—yeas 19, nays 31; as follows:

YEAS—Messrs. Bayard, Blair, Caldwell, Casserly, Cooper, Davis of Kentucky, Davis of West Virginia, Edmunds, Ferry of Michigan, Hamilton of Maryland, Hitchcock, Kelly, Morrill of Vermont, Saulsbury, Schurz, Stevenson, Stockton, Tipton, and Trumbull—19.

NAYS—Messrs. Anthony, Boreman, Brownlow, Chandler, Clayton, Cole, Conkling, Corbett, Cragin, Frelinghuysen, Hamilton of Texas, Hamlin, Howe, Logan, Morton, Nye, Osborn, Patterson, Pratt, Ramsey, Rice, Sawyer, Scott, Sherman, Spencer, Stewart, Sumner, West, Wilson, Windom, and Wright—31.

Messrs JOHNSTON and VICKERS (Democrats) were paired.

The resolution of Mr. SHERMAN was then adopted—yeas 38, nays 12; as follows:

YEAS—Messrs. Anthony, Boreman, Brownlow, Caldwell, Chandler, Clayton, Cole, Conkling, Corbett, Cragin, Edmunds, Fenton, Ferry of Michigan, Frelinghuysen, Hamilton of Texas, Hamlin, Harlan, Hitchcock, Howe, Logan, Morrill of Vermont, Morton, Nye, Patterson, Pool, Pratt, Ramsey, Rice, Sawyer, Scott, Sherman, Spencer, Stewart, Sumner, West, Wilson, Windom, and Wright—38.

NAYS—Messrs. Bayard, Blair, Casserly, Cooper, Davis of Kentucky, Davis of West Virginia, Hamilton of Maryland, Kelly, Saulsbury, Stevenson, Stockton, and Thurman—12.

#### A SECOND INVESTIGATING COMMITTEE.

While Senator SHERMAN's resolution was before the Senate there was pending a Senate concurrent resolution for a joint committee of the two Houses for a further investigation during the recess into the condition of the South. It had gone to the House, was there amended, and was returned to the Senate. In the debate which preceded the adoption of the "outrages" resolution of Senator SHERMAN it was suggested on behalf of the majority that the resolution could be passed, and then the debate go on upon the concurrent resolution for the joint committee of investigation.



To this Mr. CASSERLY said: "I must say, after the passage of such a resolution as this, to continue the debate on the concurrent resolution would be a good deal like ordering a trial over a man after he had been hanged."

The resolution was passed, and next day the concurrent resolution for the joint committee was before the Senate. Mr. CASSERLY closed the debate in the following remarks:

Mr. CASSERLY. When this resolution for a committee of investigation was in the Senate, before it went to the House of Representatives, I voted for it. I voted for it cheerfully. I did not then notice the provision that the committee might from time to time report during the recess. Had I noticed it, I am not certain that I should have been restrained from voting for the resolution. There appeared to be at that time a sort of era of good feeling in the Senate on the general subject of the alleged outrages in the South. There were many circumstances which led me to the opinion, or at least the hope, that the majority here did really desire a candid and fair investigation for the purpose of ascertaining the facts just as they are in the South in regard to the alleged disorders, and that upon the facts so ascertained the Senate would then proceed to determine whether any legislation was necessary, and if so, what legislation should be had, according to the exact exigency and within the limits of the Constitution.

THE BEST INTERESTS OF THE SOUTH FOR PEACE AND ORDER.

At that time I felt, as I do now, that the best interests of the South were in the highest degree involved in the restoration of peace and order throughout all her borders. I felt that those interests were best advanced by withdrawing, once for all, every ground or pretext from any party in the country for further interference in her just right to manage her own affairs. For these reasons, also, I voted for the resolution. I wanted the truth to be known, for I felt that no just right of the South could be harmed by the truth. So I felt, and so feeling, I was willing to credit the majority here with the same desire for the truth and for the pacification of the South. I know, if I know anything, that the most earnest desire of my heart then was, and now is, to see peace and order restored throughout the entire land, and especially throughout that southern land, which has been so terribly desolated and convulsed by a great civil war.

All my life, from feeling, from conviction, from the training and habit of an honorable profession, I have been the foe of disorder and violence in every shape, and especially in their most objectionable form of a secret, sworn

association. I never yet belonged to any organization which was bound by a tie of secrecy, however legitimate its objects. I have regarded every such organization as, to say the least, unnecessary in a free country. I was not unaware of the objections to such an investigation by Congress as a precedent. But in view of the predetermined course of the majority I was willing to waive them for the sake of the good to be accomplished by united action here.

WAS THE MAJORITY IN GOOD FAITH?

These were my own views and purposes. From what I saw I supposed them to be shared by the majority of the Senate. I was prompt to meet the majority half way. On a former occasion I had been compelled to arraign the purposes of the majority in raising the Senate committee of inquiry appointed last session. Whether I was right or wrong then, I thought I saw a healthier tone in the present Congress. The temper of the House seemed to have reached and improved the Senate. If any doubt could be cast on the motives of Senators in raising the new committee of inquiry, I was not disposed to be the one to raise it. I assumed good faith on the part of the majority here. I assumed a good purpose to do just what was right and fair in the proposed inquiry into the condition of the South. I assumed that the inquiry would be an honest one, and that it was to furnish the basis for any legislation that might be had at some future period.

THE SUPPOSED GOOD FAITH OF THE RADICALS ALL A DELUSION.

Sir, on all these grounds I voted for the resolution. It went to the House. A delay ensued there. A change without any sufficient cause meantime came over Congress. Many things have since occurred in this body in respect to the general subject of the condition of the South. Not one thing occurred that did not more and more shake my confidence in the action of the Senate, not one thing that did not disappoint my expectations. Everything that happened concurred to show me how grievous was the mistake as to the purposes of the Senate under which I voted for the new committee of inquiry. The last lingering shred of hope was rent away yesterday when the frank, manly offer made by the Senator from Ohio [Mr. THURMAN] on behalf of the Democratic minority in the Senate was rejected almost with contempt by a nearly unanimous party vote of the Senate.

THE FRANK AND FAIR OFFER OF THE DEMOCRATS REJECTED.

What was that offer? It was upon the ground that the Democratic party here has never been disposed to excuse or even to connive at disorders in the South, and that it was always for any honest investigation of them, how-



ever searching or unfriendly; that we did not object to the resolution of the Senator from Ohio, [Mr. SHERMAN,] in so far as it undertook to provide for a reference of the subject to the Judiciary Committee with instructions to report by bill; that our objection lay, as stated by the Senator from Ohio, [Mr. THURMAN,] to the assumptions of law and of fact contained in the preamble; to assumptions of facts which were unfounded as well as injurious to the States in question; to assumptions of law as to power in Congress for which there was no warrant. We said, omit these assumptions, which at best are mere recitals, not essential to the resolution. You will find the Democratic minority here willing by its votes to unite with the majority and refer the whole subject generally to the Judiciary Committee here, made up largely of Senators of the majority.

That offer was made under special circumstances. You professed to believe that the Democrats were not willing to unite with you in condemning and putting down at the South whatever disorders there were there and whatever lawless bands there were that caused them. You professed to call on us to unite with you in the good work in good faith and good feeling. We took you at your word. We made you the offer to join with you in your resolution to set your Judiciary Committee in motion. We asked you only to leave out the needless and irritating language and extravagant assumptions of the preamble. You refused our request. You rejected our offer to join with you. You made it a party matter.

NO SINCERE PURPOSE OF THE RADICALS TO PUT DOWN  
THE ALLEGED OUTRAGES.

The resolution of the Senator from Ohio [Mr. SHERMAN] was passed in its most offensive form. You, the majority, said then and there, as distinctly as though you had said it in words, that you did not desire the coöperation of the Democratic party in the great work of pacification of the South; that you spurned such coöperation; that though you had over and over declared here that with the concurrent action of the Democratic party peace in the South could be promptly and thoroughly restored, you preferred to reject that coöperation and imperil that result rather than yield up one word of the bitter assaults and aspersions upon eleven States of this Union with which the preamble of your resolution was filled, one tittle of its startling recitals of power over local crimes in the States. This was not all. In sending to the House your resolution for a joint committee of inquiry you solemnly avowed that further inquiry was needed before further action. In passing the resolution of the Senator from Ohio [Mr. SHERMAN] you deliberately declared that you would legislate at once, without further inquiry.

I shall not descend upon other circumstances

which corroborate the opinions I have been obliged heretofore to express on this whole business. I rose simply to justify the change in my vote. After what has taken place, I regard it as the extreme of folly to expect any results from his joint committee which would justify me in voting for it, or justify any man who is for ascertaining the truth or who places the restoration of peace and order in the South above all party considerations.

JUDGMENT ALREADY ENTERED AGAINST THE PEOPLE  
OF THE SOUTH—A TERRIBLE ACCUSATION.

You have already condemned nine or ten States of the South. You have passed judgment upon the people there, innocent and guilty alike. You have declared, so far as this Senate can, to the world, that by act or connivance the majority of the people of one State, and of many parts of the other States, are worse than savages, unfit to live, or fit to live only as the inmates of prisons; that not only have they defied all civil authority, but by organized perjury they have rendered the courts powerless to punish such crimes. Sir, it is the most tremendous accusation that was ever deliberately made against a whole people by its own Senate. It is such an accusation as nowhere in the annals of the most insolent and cruel oppressor outrages truth and defiles the page of history.

A whole people, the people, not of one community alone, not of one State alone, but of many parts of ten or eleven States, organized and engaged in the horrible work of annulling the power of their own courts to punish the worst crimes by organized perjury! Oh, sir, after that, after such a judgment rendered, after such a condemnation entered up by you against a whole people, it is the utmost height of absurdity, to say the least, to propose now to inquire whether there is any truth in the condemnation, any justice in the judgment, whether there is not somewhere some ground upon which your action can be rested.

For these reasons and others which, as I have stated, occur to me, but which I shall not occupy the Senate by presenting, I shall vote against the resolution now, I will not say as cheerfully as I voted for it before, but as decidedly and with as clear a conviction that I am right now as I had that I was right then.

The resolution was adopted—yeas 37, nays 12; as follows:

YEAS—Messrs. Ames, Anthony, Boreman, Buckingham, Caldwell, Cameron, Clayton, Conkling, Corbett, Edmunds, Fenton, Ferry of Michigan, Frelinghuysen, Hamilton of Texas, Hunlin, Harlan, Howe, Lewis, Logan, Morrill of Vermont, Osborn, Patterson, Pomeroy, Pool, Pratt, Ramsey, Rice, Robertson, Scott, Spencer, Stewart, Sumner, Tipton, Trumbull, West, Wilson, and Windom—37.

NAYS—Messrs. Blair, Casserly, Cooper, Davis of Kentucky, Davis of West Virginia, Hamilton of Maryland, Johnston, Kelly, Saulsbury, Stevenson, Stockton, and Thurman—12.

[Messrs. BAYARD and VICKERS, though present, were paired.]

The VICE PRESIDENT. This joint committee now authorized is to consist of seven Senators on the part of the Senate. How shall they be appointed? ["By the Chair."] If there is no objection, the Chair appoints as those Senators, Mr. SCOTT, (chairman,) Mr. WILSON, Mr. CHANDLER, Mr. RICE, Mr. NYE, Mr. BAYARD, and Mr. BLAIR.

[These were the same Senators previously appointed on the special Senate committee of Mr. MORTON.]

### The Closing Scenes in Congress.

THE "KU KLUX BILL" IN THE TWO CONFERENCE COMMITTEES OF BOTH HOUSES.

The House of Representatives having passed a force bill for the South, though in terms extended over the whole country, sent it to the Senate. Although the time for discussion was unduly limited, under the usual pressure by the majority, the bill and the amendments were debated and exposed quite fully and thoroughly by Messrs. THURMAN, STOCKTON, BAYARD, SAULSBURY, VICKERS, BLAIR, and CASSERLY, of the Democrats, the latter closing the debate; and by Messrs. TRUMBULL and SCHURZ, of the Radicals. Mr. CASSERLY's speech will be printed in a document separate from this.

In the Senate the bill received several amendments, very decidedly for the worse. In some of the most important of these amendments the House refused to concur. A committee of conference was appointed. The usual result followed. The conference retained the two most vicious amendments made in the Senate; that of Senator SHERMAN, making the county, city, or parish liable for injuries in violation of the bill, which, as retained, was worse than as it passed the Senate; and that of Senator MORTON, embodying the law passed during the war for applying a test-oath to jurors, grand and petit, and which was so atrocious as to have become almost obsolete even in the South.

TUESDAY, April 18, 1871.

THE REPORT OF THE FIRST CONFERENCE COMMITTEE.

Upon the coming in of the report of the committee of conference, Mr. THURMAN moved to postpone the matter until next day and to have the report, which was long and intricate, printed. This was resisted by the majority. A debate on the merits then arose which lasted

for several hours, giving the minority ample opportunity to examine and understand the conference report.

The pending question being on the motion of Mr. THURMAN,

Mr. CASSERLY said: Mr. President, I think the motion of the Senator from Ohio [Mr. THURMAN] should be adopted. There is a precedent for it in the practice of the Senate. I refer to the report of the committee of conference on the enforcement bill, so called, the bill introduced by the Senator from Nevada [Mr. STEWART] during the second session of the last Congress. That was a bill very much debated in both Houses, and which excited great interest. In the conference which was appointed upon it several important changes were made in the bill. For that reason, and because of the general character of the bill, it was deemed proper by the Senate to print the report so far as it related to any changes made in the bill as it passed the Senate. That was done; and upon the report very considerable discussion arose, which lasted, I believe, during two days. It seems to me that this is preeminently a case for following that precedent. It is true that the principal change is in but a single section. At the same time, Senators should remember that the section was one which was practically an undiscussed and undebated novelty at the time it was presented.

The Senator from Ohio, [Mr. SHERMAN,] though he requested leave to explain his amendment, was refused by a vote of the Senate, or rather by an objection, which had the effect of denying to him the liberty to make explanation. The result was that we had to take the section and vote upon it, *pro* or *con*, according to the best of our judgment upon the mere reading of it.

THE SECTION MAKING COUNTIES, CITIES, TOWNS, AND PARISHES LIABLE.

That section was not only a stranger, was not only adopted without any debate, but it was a section entirely new in the whole legislation of Congress, so far as I can learn. It was a section which involved great considerations, not only of constitutional power on the part of Congress, but of the highest public expediency. If we had the authority under the Constitution to impose upon the counties, towns, and parishes within the States the onerous burdens which this section lays upon them, then it was at least a fit question for debate whether the power was one which should be exercised, by reason of its liability to abuse, of the extreme injustice and inevitable harshness of its incidence.

THE SECTION MADE MUCH WORSE IN THE CONFERENCE.

I should have been glad had the section been entirely taken out in the committee of conference. In my judgment, it should have been. It was not only not taken out, but it



has come back here in a much worse condition than when it left us. Though the word "amendment" is the parliamentary word to be applied, it certainly must be in a purely technical sense when applied to such a proceeding and applied to the present condition of this section; for, instead of being "amended" in the ordinary meaning of the word, it is made ever so much worse by the change. As the section now stands in the report of the committee of conference, it provides that any judgment recovered by the plaintiff in any suit described in the section, that is, a suit for injuries inflicted on him, either in person or property, by persons riotously and tumultuously assembled together, may be enforced against the city, county, or parish made liable under the judgment; and not only that, but it provides that any such judgment "shall be a lien as well upon all moneys in the treasury of such county, city, or parish as upon the other property thereof."

THE DESTRUCTION OF ALL LOCAL GOVERNMENTS  
WITHIN THE STATES.

Sir, this provision in its language and in its operation is another great stride in the grand scheme of nullifying and wiping out all local authority, not merely of the States, but within the States—of destroying and obliterating, in substance and in effect, the local governments within the States. Why, sir, one of the first essentials to the purposes of a government anywhere, whether in a parish, a township, a city, or a county, is to be able to raise and to control the necessary revenues. I presume I shall not be far from the truth when I say that in most States of the Union, either by statute or by decision of the courts upon the unwritten law, the public moneys of a city or county in its treasury are not liable to be taken upon execution, or to be seized upon attachment or any other process of law. They are essential to the existence and to the carrying on of the local government. And yet here is a provision that upon such a judgment as I have described, obtained for injuries by a mob, or a riotous, tumultuous assemblage of persons, the marshal of the United States may break open the treasury of a city or a county and may take out whatever may be necessary to satisfy the judgment, though it absorb the whole contents of the treasury.

ALL THE COUNTY OR CITY REVENUES MAY BE SEIZED  
OR IMPOUNDED.

Then, sir, what is to become of your towns? I do not speak so much of the large cities, because they can generally take care of themselves. As a rule, they are not likely to have their treasuries swept clean by any judgment probable or possible to be obtained under this law, unjust, harsh, inexcusable as it is. But what are your small cities and towns through-

out the country to do? Why, sir, any of them may be brought to a dead stop in its government by a judgment obtained under this bill. Many of the Senators here are residents of small towns in the interior of States, and they will understand at once, without the necessity of my enlarging upon it, how vicious must be the operation of this bill, should it become a law, in the respect I have mentioned.

But that is not all. The judgment is declared a lien, not merely upon so much money as may be necessary, but upon all moneys in the treasury, so that on a judgment for \$5,000 \$200,000 can be impounded. Can anything be more extravagant in the way of law-making?

THE PRIVATE JUDGMENT IS A PREFERRED LIEN ON  
ALL THE REVENUES.

Not only that, but it is a preferred lien. No matter what appropriations may have been made of the moneys in the treasury in pursuance of law, for the highest purposes of government, of police, of humanity, they are all swept out of existence at one stroke by Congress, and your court-houses, your jails, your hospitals, your orphan asylums may be brought to a dead stop, because of the lien laid by your act of Congress which ties up every dollar that happens to be in the treasury at the time. What good object could have been intended, what good object can be secured by such legislation?

Mr. COLE. To keep the peace, to prevent the Ku Klux outrages.

Mr. CASSERLY. My colleague is disposed to be rather funny over the subject of stopping the government of a little town to pay somebody's judgment. I do not regard it as a subject precisely for humor or for fun.

Mr. COLE. Mr. President—

Mr. CASSERLY. I shall be through with the sentence in a moment.

Mr. COLE. I should like to know what reason the Senator has to say that I was inclined to be funny over it or make light of it.

Mr. CASSERLY. Then the Senator was serious; but his fun is so much like the seriousness of other people that one is not always able to distinguish when he is funny and when he is serious.

Mr. COLE. That is a very funny remark.

Mr. CASSERLY. Yes, I intended it as such, I frankly confess. If my colleague had been equally frank we should not have had this colloquy.

TO "KEEP THE PEACE" A FALSE PRETENSE.

My colleague says that this measure is necessary "to keep the peace." In this he but echoes the continual cry of his party here. Why, sir, the peace of this country has been kept pretty well ever since 1789, now over eighty years, without any resort to such remedies. All at once it is discovered that in



order "to keep the peace" remedies like those contained in this act are indispensable. The men who went before us had some ideas of government. Not only was the peace maintained under their ideas of government, but the growth of the country, its honor, its prosperity, its welfare at home and abroad, were served so well that it is not in the least a reflection upon the dominant party to say that if at the expiration of its period in the Government it shall leave behind it half as good a record it will be extremely fortunate.

Why, sir, "to keep the peace" you should not organize local anarchy. "To keep the peace" you have no right to put an end to all local government. "To keep the peace" you have no right to strip your towns and counties and parishes of the means whereby they live and govern. "To keep the peace" you deprive your cities and your towns and your parishes of any power which they have to keep the peace, because you take away the means by which they maintain their police powers, by which they pay their constables, by which they support their jails. In order that Congress may "keep the peace," it provides that there shall be no power, that is to say no means, left to the local organizations in the States throughout the whole country of keeping the peace for themselves and for their people. How shallow and paltry is the pretext that in order "to keep the peace" in a few States in the South the whole of the townships, cities, towns, counties, and parishes in all the States must be left liable to be reduced to a perfect perfect state of nullity, to be stripped at any moment of their revenues! These may be small, and their smallness may be a subject of derision to some Senators, but they are vital to them, and in their frugal and honest administration of their affairs they have thus far proved sufficient.

ALL THE PUBLIC BUILDINGS OF THE COUNTIES AND CITIES MAY BE SEIZED AND SOLD.

But, sir, that is not all, and certainly is not the worst of it. Here is something very much worse. It is a provision that such a judgment may be enforced by execution, and that besides being a lien "upon all moneys in the treasury" of the county, city, or parish, it shall be a lien upon "the other property thereof"—a lien, of course, to be enforced by execution, and by sale. That is the mode in which you enforce a lien in a common-law action such as that which is provided here, an action upon the case.

Now, sir, what is "the other property" of the county? I will tell you what it may be. It may be its court-houses, its jails, its poor-houses, its hospitals, its schools, and anything else in that nature. To authorize a court-house, for instance, to be taken and sold upon an execution for a private judgment is simply

to put a stop to the course of justice. I am not certain that the section would not authorize the marshal under the attachment, which is merely mesne process in the suit, pending the suit, and before a judgment obtained,—to turn out of the court-house judge, sheriff, clerk, suitors, attorneys, and take and hold possession of it. I am inclined to think that such would be the necessary construction, if the plaintiff's attorney should demand it, because, of course, the possession of the marshal under an attachment is exclusive if he chooses to make it so; at all events, as to the furniture of the court-house. The first necessity for all local self-government and for all peace and order is the maintenance of courts in the States; and to say it is in order "to keep the peace" that you authorize a proceeding by which every county or local court-house in the country, civil or criminal, can be locked up, one after the other, until it is sold and passes into private ownership, is simply to say what I think nobody seriously would credit. "To keep the peace" in one case you take away from your local political organizations and subdivisions throughout the land the power to keep the peace in all other cases. Not only may the jail be sold; it may also be taken in attachment. What is to become of it when it is taken under attachment? Under that taking who is in custody of the jail and of the prisoners? Is it the marshal, or is it the jailer? Then, when the execution comes to be enforced in pursuance of the lien which your statute gives upon the jail, and a private purchaser buys it, what are his rights? His rights are absolute over the property; he may open the door and let every prisoner go free.

These are the reasons why in every State of this Union—I believe, with one or two exceptions, certainly with very few exceptions—it is the law, either by statute, or as held by the courts without statute, that such buildings as I have been describing here are exempt from attachment, from execution, from lien, from process or proceeding of any sort whereby the free, unbroken, perfect control of the local authorities over them can be hindered or destroyed.

This is a bill "to keep the peace;" and yet it is a bill to sell out the jail to perhaps some confederate of a malefactor who is confined in it, whereby he may open the jail-door and let his accomplice go free!

A BILL TO CLOSE THE COURTS AND OPEN THE JAILS.

Here is a bill to secure "the equal course of justice," to use the language of the bill, which occurs so frequently in it—a bill to maintain all citizens in their equal rights! Yet, under it, the courts may be closed and the jails opened throughout the land! When your poor-house or hospital is attached, who is to take care of the inmates? When it is sold on

execution and the purchaser opens the door, what is to become of them? Here is a bill in the cause of humanity, and yet it is a bill which strikes at the maintenance, the very existence of all charitable and humane institutions within a county! You first provide to take away the revenue by which the poor are fed in the poor-house, and next you provide for a seizure of it under attachment by the marshal and for an ultimate sale of it in private property to any purchaser who chooses to buy it.

If in any county of a southern State an attempt should be successful to enforce the law, as I contend all of the attempts that were earnestly and vigorously made in North Carolina were successful, and there should be a gang of fifteen or twenty of these Ku Klux gentry prisoners in a jail, some of them waiting to be tried, some of them waiting to be hanged—the whole of these fellows could be released under your bill. Yet, if we may rely on the professions of Senators here, your bill, if it has any object more than another, is a bill to punish, and to suppress the Ku Klux organization.

Your language is absolute; you not merely make the judgment tie up all the money in the treasury of the county, but you make it a lien to be enforced by execution and sale against all the property of the county without discrimination. Why did it not occur to some gentleman of the Radical members of the conference committee from either House, all of them lawyers, if I am not mistaken, to reserve the right of the counties, if not to their own revenues at least to their own public buildings, in every respect so vital to the preservation of law and order, peace and tranquillity, within the counties? Vital, because, at least as we have understood heretofore—it seems that a new dispensation is opening on us now—but as we have understood heretofore, the great mass of the rights of the people is in the custody of the States, and the great duty of maintaining life and property secure to the inhabitants of the State is vested in the State.

THE STATES CAN NEVER BE LONG DEPRIVED OF THE RIGHT TO PROTECT THEIR PEOPLE IN LIFE AND PROPERTY.

Sir, I take this occasion to say that I believe that still to be the law, and that it will continue to be the law though this bill should pass. I believe—I know, that no act of Congress will stand long in this country which undertakes to deprive the people of the several States of their paramount and indefeasible right to provide for the protection of their own lives, liberties, and property. But, assuming the theory, vicious as I regard it, upon which this bill is framed, still there is a great mass of duties in regard to persons and things, to be performed, at least, in the first place, by

the States and their local organizations—by their counties, cities, and towns. What is to become of that great mass of duties, if you commence by taking away from counties, cities, and towns the revenues whereby they may discharge them; indeed, the very public buildings where the local justice of the country has its seat, the jails where its criminals are held, the hospitals and poor-houses where its sick and poor are cared for, and the schools where its children are to acquire that education and intelligence which will best fit them to discharge their duties as men and women in after life?

Mr. DAVIS, of Kentucky. Will the honorable Senator allow me to make a single suggestion?

Mr. CASSERLY. Certainly.

Mr. DAVIS, of Kentucky. The principle which he has presented with such conclusive force to the Senate has been recognized and approved at the present term of the Supreme Court of the United States. In the case of *McCulloch vs. The State of Maryland*, Judge Marshall decided expressly that the machinery and operations and property of one government necessary to keep it in operation could not be levied upon as a subject of attachment by another government. In the case in relation to a revenue bill some years ago, there was a feature that taxed the process in the State courts. The State of Wisconsin resisted the levying of that tax. A case was made and went up to the supreme court of the State of Wisconsin, and it was there ruled solemnly and correctly that the process of a State in the State courts was not a subject for Federal taxation. And in conformity to that decision Congress subsequently repealed the tax on all process; and the question has come up and been decided at the present term of the Supreme Court of the United States in the form of the internal revenue tax on the salaries of State officers.

A case was made in which a State officer refused to pay the tax assessed upon his salary. The case came to the Supreme Court and has been decided at the present term, and by the unanimous judgment of the court, with the exception of one member of the bench, the decision of the inferior court has been sustained, and it has been solemnly adjudged that the salary of a State officer is not a subject of Federal taxation. The principle is the same as applied to the various subjects so luminously and so forcibly stated by my honorable friend from California, that the jails, the court-houses of the States, no more than the State officers, can be subject to Federal taxation, because they are as essential for the preservation and continuance of the State governments as anything can be, and they come expressly under the principle established by the Supreme Court incidentally in the case of *McCulloch vs.*



The State of Maryland, the case that I have cited from Wisconsin, and the case decided at the present term of the Supreme Court, that no part of the machinery, property, court-houses, jails, salaries, poor-houses, or any other part of the necessary machinery in carrying on a State government, is subject to taxation, much less to distress and sell, by the authority of an act of Congress.

Mr. CASSERLY. I was wholly unprepared for the discussion of the grave questions of constitutional power involved in the present discussion. I did not for one moment believe that the conference committee, badly as I think of such committees, would fail to strike out this section. I am the more indebted to the Senator from Kentucky for stating so well what I had in my mind and was about to speak of. I cannot flatter myself that I should have succeeded in stating it so well or so fully as he has done.

#### THE SECTION IS GROSSLY UNCONSTITUTIONAL.

Indeed, just before the Senator from Kentucky spoke, I was about to say that the only thing which takes the sting out of this most mischievous section of the Senator from Ohio [Mr. SHERMAN] is that it never can be enforced. It is invalid. It is grossly unconstitutional. It never has been contended seriously by anybody—the contrary has been over and over held—that under any theory of the Constitution can the Federal Government impair—by taxing, for instance—the means whereby the State governments, and consequently the municipal and local governments in the States, are maintained. Almost the first gleam of returning light since the war as to the powers assumed by Congress broke in upon us from a New England State, if I mistake not, from her supreme court. It was in a case where that court intimated a very strong opinion that so much of the internal revenue law as requires the process of the State courts to be stamped was unconstitutional, for the reason, as generally put, that if the Federal Government can lay a tax of fifty cents on the process of a court it can tax it out of existence.

#### THE FEDERAL GOVERNMENT CANNOT IMPAIR THE MEANS OF GOVERNMENT OF A STATE.

I should myself prefer to put it on the broad ground that it is not within the powers of the Federal Government in any degree to interfere with the State governments in their legitimate operations, as by taxing the process of the State courts or in any mode impairing any of the means and appliances whereby the governments of the States, or of their cities and counties, must be carried on. So, and for the like reasons, Congress cannot tax the salary of a judge of a State, as in the case just decided by the Supreme Court, mentioned by the Senator from Kentucky, [Mr. DAVIS.] The

same is true as to the salary of any other State officer.

In laying a tax on property an essential power is to enforce the tax by a sale of the property. Now, since Congress, even for taxing purposes, cannot authorize the sale of the public buildings of a State, which are a part of its machinery of government, it follows that you cannot authorize a private individual, for his private claim or judgment, to sell such buildings. In the same manner, as you cannot so far interfere with the governments of the States and of their cities and counties, even to collect your taxes, as to shut up a court-house, or a jail, or a school-house, or an alms-house, you cannot authorize any private person to do it in his suit. It seems to me an exceedingly plain case. The taxing power is among the most sovereign powers of government, so declared by the authority of the writers and of the cases. It is your most essential power, because it is the life of the government. Yet in the exercise of even that great power, and although you deem it necessary for the existence of the Government, you cannot seize the public buildings of the States or of their counties or cities and sell them into private ownership. The revenues of the counties, cities, and parishes are on the same grounds sacred from your laws even for the purposes of taxation.

Yet in this section of the Senator from Ohio [Mr. SHERMAN] you attempt to authorize a private person, in his private suit, to do with the local governments within the States, and with their revenues and public property, what you cannot do in virtue even of your great public power of taxation. The point is too plain for argument. What you cannot do for the greatest public purposes you cannot empower a private individual to do for his private purposes. And such a section as this was proposed in the last moments of a protracted debate, and adopted by the Senate without the least discussion of it or of any of its enormous provisions.

#### THE MADNESS OF UNLAWFUL POWER.

Why, sir, in these Halls we seem to move and act in a delirium of power. All power, it is said, corrupts the possessor; but there is no power which so corrupts him as unlawful power. Where the power is unlawful, the fascination of its use becomes something terrible. It is irresistible, because it is more true in government than it is elsewhere, that "bad begun makes strong itself by ill." One bad step requires another still worse to sustain it, and so on to the end through the whole career of progressive and increasing wrong and disaster. Here is a bill undoubtedly unconstitutional in its theory and in its provisions, as first reported. Of its unconstitutionality in most of its substantive and leading parts there



is no serious question. To such a bill is added, without a word allowed to be said, a section which provides at one fell swoop for taking away in private suits the entire means of maintaining the government anywhere throughout the country, either by the cities or counties or other political subdivisions within the States. Why, sir, I shall be content to leave such a question as that to the people of the towns even of New England. We know what those towns are, what a part they have played in the growth of the government and liberties of that people. Philosophic foreigners have grown eloquent upon the towns of New England, as the nurseries of freedom, as the fundamental repositories of self-government. It was the township system of New England that won for her from the Frenchman who wrote so much and so well upon our country, De Tocqueville, the praise that New England in her local organization by towns was politically the most thoroughly democratic of republics. What is to become of the township organizations there, or anywhere, if judgments such as this section provides for can strip their treasures bare and leave them destitute of the frugal means whereby they exist?

#### THE FLIMSY EXCUSES FOR THE MEASURE.

How is such legislation defended? I put away, as unworthy of a moment's attention, the plea that it is necessary to preserve the peace. There is no soundness nor substance in the plea. It amounts to nothing whatever. As well might you say that because disorders exist in one place you should take away all means of preserving order in other places. So, because law and order have been violated in a portion of the southern States, all the States should be so dealt with that they may, in their counties, be deprived of the usual means, indeed of all means, to maintain peace, order, or law anywhere throughout the country! I am unable to comprehend how anybody can seriously present such a plea for this bill. I put it aside as unfit for consideration.

#### THE SAXON LAW OF THE HUNDRED.

An excuse is offered for it that it is borrowed from a law of England, a law which it is said has been in force there since the early Saxon times, and has been found to work well. The Senator from Ohio [Mr. SHERMAN] really became quite enthusiastic over the visions of restored peace, order, happiness, prosperity, and freedom which were to flow from the adoption of his section. I am not certain that he was quite fair to the rest of the bill, for this section was the bright, particular star, according to his remarks, of the whole system of pains, penalties, remedies, and repressions contained in the bill.

But, sir, why should any Senator deliberately propose as a reason for adopting this

section in this country the assertion that a similar law has been in force in England for a great many years, and with good effects? Granting all that, it proves nothing. The facts existing in England and the facts existing in the United States are not the same. They are widely different. Let us see for a few moments. The law of the hundred was in force in England at a time when society was struggling for existence.

Mr. COLE. Will my colleague suspend his remarks until I can make a report from a conference committee? The House are now without business and are waiting for one of these bills to act upon, and this we can give them, I think, without any debate whatever. I am so informed.

Mr. CASSERLY. Certainly, I yield.

Mr. EDMUNDS. I hope the Senator from California nearest me will not interrupt my friend farthest from me in finishing his remarks, so that they may be consecutive.

Mr. CASSERLY. I have no objection.

Mr. COLE. My colleague has no objection.

Mr. EDMUNDS. I prefer that the Senator from California farthest off [Mr. CASSERLY] should not be interrupted until he is through. Then the Senator from California nearest me [Mr. COLE] may make his motion.

The PRESIDING OFFICER. (Mr. HURLAN in the chair.) This can be done only by unanimous consent, and the Senator from Vermont objects.

Mr. EDMUNDS. I object for the present. I do not think my friend from California farthest from me ought to be interrupted.

Mr. CASSERLY. I presume I should be especially obliged to the Senator from Vermont [Mr. EDMUNDS] for his interposition to protect me from interruption by my colleague. I have been a great deal more interrupted by loud conversation during the last fifteen minutes than I was by my colleague's request.

#### THE CASES OF ENGLAND AND THE UNITED STATES NOT AT ALL SIMILAR.

I say, sir, there is no similarity between the state of things existing in England at any time and that existing now in the United States. When this law was first in force in England society was struggling out of almost its primal elements for an organized existence. In a country which was nearly a wilderness, and among a rude, fierce, semi-barbarous people, there was a necessity for supplying the weakness of government by the severest obligations upon the individual as the only means of maintaining even a semblance of order and of law. Hence, every man was made an enforced policeman; the whole hundred was made responsible for the injuries done by any person within the hundred. Doubtless the old law worked well; doubtless the principle of the law has continued to work well, even to

the present time. I argue that from the fact that the law, it seems, has recently been reënacted. But, sir, what comparison or analogy is there between England and the United States, at this time or any other?

What comparison is there between England's dense population, spread all over her surface, and the thinly settled, outlying rural districts of this country, especially of the western and southwestern States? Is there any comparison? I suppose that throughout all England to-day there is not a police station that is not within five miles of a telegraph, which is not within easy reach of the means to collect rapidly at a given point a force more than sufficient to cope with any ordinary riot or outrage. Is that true of the United States? We know it is not. Why impose upon the rural communities throughout your State, Mr. President, [Mr. HARLAN in the chair,] throughout the State of Iowa, the duty of maintaining a police force sufficient to cope with such disturbances as this bill contemplates? Or, if the farmers of Iowa find themselves unable to do that, why require them to be policemen, to be peace officers; or if they cannot do that, why mulct their counties in damages and themselves in taxes?

THE BURDEN INSUFFERABLE IN THE COUNTRY DISTRICTS.

Sir, as I understand it, if a man obeys the law, if he pays his taxes, if he acts as a juror, if, when he is summoned by the sheriff as one of the *posse comitatus*, he obeys the summons, he has done his duty as a good citizen. Why impose upon the people of the agricultural districts of the United States new burdens which must become insufferable to them? They live in a country and lead a kind of life for which there is no parallel in England to-day, and never was. In a city such a law is well enough; but wherever it does exist, as in New York or Philadelphia or San Francisco, three cities that I know of, it is by virtue of a statute. Even so, my observation is, and I think such is the general experience of the profession, that the law has been greatly abused, almost always perverted, to the great wrong of the defendant. In other words, outrageous and fabricated damages are obtained in too many cases. Yet I do not question the principle of the law in cities. Cities are expected and are bound to maintain an adequate police force. In every great city there are military organizations which may be called upon, and which, with the police, are nearly always adequate to keep the rioters in check until succor can be had from the interior of the State, or, upon a proper application, from the United States.

But is there any comparison between the condition of a city like New York, Philadelphia, or San Francisco, in dealing with such emergencies, and the condition of a great agricultural county in the interior of Ohio or Illi-

nois or Missouri, and still more of Wisconsin or Iowa? To make the English law of the hundred a proper one in this country, you must show that you have a social organization, that you have a condition of population, that you have a condition of government that is somewhat the same. You must show that you have a police establishment equivalent to or at least something resembling that of England. You know very well that nothing of the sort is true. Hence the whole argument of the Senator from Ohio [Mr. SHERMAN] falls for want of facts to support it.

I have said all that occurs to me at this moment of the section of the Senator from Ohio, [Mr. SHERMAN.] I desire now to say something as to the section in regard to the test-oath for jurors as it now stands in the report of the conference committee.

THE TEST-OATH FOR JURORS.

As I understand the report, the change made in the bill as it passed the Senate consists in striking out the first section, leaving the rest of the law to stand as applicable to the test-oath for jurors. There is no doubt, I think, upon an examination of the law, that the first section was peremptory in its application. That is, it was made a cause of challenge and disqualification of grand and petit jurors that the juror was objectionable on the state of facts presented in that section, which state of facts is pretty much to the effect that he was unable to take the test-oath called for by the second section. That, I say, was peremptory. I do not think there can be any serious question on that point.

The second section makes it discretionary with the district attorney or other public prosecutor on behalf of the United States, in any court, to demand of the court to require the clerk to administer to every grand or petit juror a test-oath. That section is retained.

I heard the Senator from Kentucky say a while ago that the test-oath as called for by that statute was nearly obsolete in his State. I wish I could think that the same thing was true of the other States of the South. I have had occasion more than once to remark how the severity or injustice of a bad law is mollified in practice by the natural equities of the human heart; but I greatly fear, with my judgment as to the purpose of the present bill, and in view of the spirit manifested here by Senators of the majority, that in most of the States of the South the right instruments will be found for the evil work, so that this test-oath will be enforced with the utmost rigor.

Now, sir, what is it? The oath is:

"You do solemnly swear (or affirm, as the case may be) that you will support the Constitution of the United States of America."

Of course there is no objection to that—"that you have not, without duress and constraint,



taken up arms, or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money, or any other thing, to any person or persons whom you knew, or had good ground to believe, had joined, or was about to join, said insurrection and rebellion, or had resisted, or was about to resist, with force of arms, the execution of the laws of the United States."

In other words, no man could take this test-oath who gave a cup of water to his dying son wounded in the confederate service.

"That you have not, directly or indirectly, given any assistance in money, or any other thing, to any person or persons whom you knew, or had good ground to believe, had joined, or was about to join, said insurrection and rebellion."

No surgeon, no nurse, who sought to care for or save the life of such a soldier could take this oath.

Mr. THURMAN. Let me call the attention of my friend to the fact that we confirmed a gentleman for judge who could not take it.

Mr. CASSERLY. I am coming to that. The section continues:

"And that you have not counseled or advised any person or persons to join any rebellion against, or to resist with force of arms, the laws of the United States."

Such is the oath which is to be put to grand and petit jurors under your bill. What percentage of the white men in the southern States fit to be jurors can take that oath? Can ten per cent.? If ten per cent., can twenty per cent.? I doubt if twenty per cent. can.

The Senator from Ohio was about to refer to the case of a person confirmed by this Senate as judge, who had been obliged to obtain a release from his disabilities in order to qualify. Why, sir, I should say that most of the office-holding witnesses called by the majority of the Committee on Southern Outrages were persons who had either been in the confederate army or were otherwise unable to take this test-oath. The Senator from North Carolina himself [Mr. POOL] could not take the oath. Your Attorney General could not take it. No, sir; neither the Senator nor the Attorney General nor your United States circuit judge, (Mr. Rives, of Virginia,) could be a juror if challenged under your bill.

Mr. LEWIS. If the Senator from California will pardon the interruption, I will say that it was a mere piece of squeamishness on the part of Judge Rives ever thinking he committed an act against the laws of the United States in his life. He had given his son, conscripted into the confederate army, a horse, and that was the only thing.

Mr. CASSERLY. That was a very clear case. I do not think it was a case of squeamishness. I should say it was a case of very just conscientious difficulty. The provision is that "you have not, directly or indirectly,

given any assistance in money, or any other thing."

Mr. LEWIS. Was it for the purpose of aiding the rebellion? There was no such purpose.

Mr. CASSERLY. If the Senator from Virginia [Mr. LEWIS] will listen to me he will see that I am right about it, as a question of law:

"That you have not, directly or indirectly, given any assistance in money, or any other thing, to any person or persons whom you knew, or had good ground to believe, had joined, or was about to join, said insurrection and rebellion."

I think if the son of Judge Rives was in the confederate service or was about to join that service, and the judge gave him a horse—perhaps he was in the cavalry; I do not know how that was—that made it very clear that the judge was not squeamish, but was very justly and properly conscientious if on that state of facts he refused to take the oath.

Mr. LEWIS. He was advised by gentlemen here that he could take the oath.

Mr. CASSERLY. I am very much surprised to hear that any considerable number of Senators on this floor gave any such advice. The conscience of Judge Rives was much better than the understanding of his advisers.

#### A LAW TO PACK ALL JURIES IN THE SOUTH.

I do not believe that ten per cent. of the white people of the South fit to serve upon a jury, grand or petit, could take your oath. It would have been a great deal more honest and manly had you excluded all such men from juries and provided that nobody should sit upon a jury, either grand or petit, except a man who had always been "loyal" or a man who was black; for, that is the effect of it. It confines your juries entirely to the so-called loyalists of the southern States and the black people there. You are to have no other jurors. In other words, you pack your juries. In the worst days of English history there was just such a wretched contrivance as this. It was used in England for the persecution of the Dissenters. In Ireland it was used as a portion of the diabolical code of law known as the penal code of Ireland. The result there was what the result will be here. The juries were all packed with men who were the political enemies of the defendant in the civil suit, or of the prisoner on trial in the criminal suit. The law was passed for that object, to make the courts of justice an instrument to defeat justice between man and man, and between the Government and the people. Juries were packed under the Irish test-oath, as they will be under this oath, in every instance where there was any motive, either of interest or of feeling, to pack them.

Now, in the year 1871, more than eighty years since the adoption of the American Constitution, in the full blaze of modern civilization,



and in view of the fact that there is not a Government in Europe, however despotic, where such a law as this is in force or has been in force for many years, or where a man with any consideration for himself or his political prospects would dare to offer it,—now and here we find a law like this deliberately proposed for the purpose of packing the juries in eleven States of this Union in every case, civil or criminal, arising under your bill. Oh, sir, after that, you had a great deal better at once proclaim military law in those States. I would rather trust your epauletted ministers of justice; I would rather trust your drum-head courts-martial; I would sooner leave the people of the South to be tried by the tribunal known as a military commission, of which it was once well said that it is summoned to try and organized to convict; to any trick or sham of administering justice, rather than to that which is provided in this bill.

Sir, rather than a packed and partisan jury in the South, I will take a soldier. In his training, in his sense of responsibility, in his experience in the fields he has seen, in his knowledge of what is due between man and man, you have some guarantee even in his administration of martial law. But here you provide a code of laws, severe, rigorous, based on an assumption of a state of facts which does not exist, evidently capable of being used for the worst party purposes; I will not say intended for that, but evidently capable of being so used. When you set it in motion in an excited, bitterly-divided community, where men are arrayed into two hostile factions; when by that law you provide, as distinctly as if you had provided in terms, that there shall be no jury, grand or petit, unless it is composed of men who are the utter political enemies and often the bitter personal enemies of the men whose fortunes and lives are to be passed upon by them,—you have a code of laws in its scope as iniquitous and unjust as any that blackens the page of history. I have not so poor an opinion of Senators of the majority as not to feel entirely certain that if they shall live the length of life which I desire for them, they will all of them live to regret such legislation as this.

Senators, you talk of an emergency justifying it. There is no emergency that justifies the destruction of justice; there is no emergency that ever can exist which justifies the partisan packing of the juries, grand and petit, against a whole people. You talk of your lenity. What was your lenity? That you did not cut off the heads of the whole people in the South after the war? Why, Senators, you could not do that; your sword would have wearied of the butchery. That you did not hang five hundred or a thousand of them? That you did not banish twenty-five hundred

or three thousand of them? Why did you not? Because you knew that the public opinion, not merely of the world but of the country, was against the atrocity. But, Senators, could you have done anything worse under the most severe system of vengeance and repression than this law proposes?

Why, sir, to judge by this law and the sentiments I have heard uttered by Senators since I have been here, now over two years, it occurs to me that the fact that you did not undertake to extirpate those people, or at least to decimate them, is a constant source of disappointment and regret, and that you are endeavoring now, under the guise of laws the most severe and unjustifiable that ever were enacted in time of profound peace, in any country, to make amends for the mistake, as you seem to conceive it, which you then made.

I shall not detain the Senate with any further remarks on this subject.

The Senate by about the usual party vote adopted the conference report. It was nevertheless rejected by the House.

WEDNESDAY, *April* 19, 1871.

#### EVENING SESSION.

##### THE SECOND CONFERENCE COMMITTEE.

The House of Representatives by large majorities refused a second time to concur in the amendment of Mr. SHERMAN, or that of Mr. MORTON as modified by the first conference. A second conference was appointed, in which, while the Sherman amendment was practically abandoned, the test-oath for all jurors (part of Mr. MORTON'S amendment) was retained. Thus one more was added to the list of instances in which a committee of conference has been used to nullify the clear will of one or the other House of Congress, or of both Houses. As in the first conference, the report was not signed by the Senate or House Democratic members of the conference.

The report was presented at an evening session held for the purpose. An extended debate arose, marked by unusual violence or great personal bitterness on the part of some of the Radical Senators who took part in it.

Mr. EDMUNDS, Mr. SHERMAN, and Mr. THURMAN having spoken, Mr. CASSERLY spoke as follows:

Mr. CASSERLY. To say, Mr. President, that this conference report is a disappointment

to all who hoped, from the action of the House of Representatives in rejecting the former conference report, that the second conference would heed that action and would give us a better bill, a bill purged of both the Senate amendments, so vindictive and unconstitutional, would be to state but mildly the feelings of Senators on this side of the Chamber. Yet even so, I should hardly have been drawn into the debate at this stage of it; but the speeches to which we have just listened from the Senator from Ohio [Mr. SHERMAN] and the Senator from Vermont [Mr. EDMUNDS] oblige me to trouble the Senate with some remarks.

As I came to the Chamber this evening I heard loud, excited speaking before I reached the door. Upon entering the Chamber I discovered that the speaker was the Senator from Ohio, [Mr. SHERMAN.] A year ago at this date I should have been surprised to hear from that Senator such a speech. I should have been astonished to hear from him such sentiments, uttered with a temper which vibrated in every tone of his voice. I am constrained to say, however, that though I heard him to-night with regret, I felt no surprise when he declared himself on any ground for "general civil war."\*

#### THE RADICAL CRY FOR MORE CIVIL WAR.

It is not the first time within the past twelve months, I lament to say of a Senator of his high position in the governing party of this country, that he has given utterance to the same shocking sentiments. Last year, during the long session of Congress, in the debate on one of the enforcement bills, if I remember the measure, he uttered a menace of civil war.† The same session, in the debate on the bill to admit Georgia to representation in Congress,

\*The precise language of the Senator, as taken down from his lips at the time, was:

"Well, sir, I am willing to make not only local civil war, but general, universal war, in order to put down these things."

The official report of the debate shows that though Mr. SHERMAN was at once called to account by Mr. THURMAN and by Mr. CASSERLY for his threat of "general, universal civil war," he did not at all deny having made it.

†The debate was on May 20, 1870, on the bill for the enforcement of the fifteenth amendment. Mr. SHERMAN introduced an amendment for regulating by Federal power elections for members of Congress and—for presidential electors! It gave rise to a discussion between him and Mr. CASSERLY, in the course of which, speaking of the presidential election of 1868, and the alleged election frauds in the city of New York, Mr. SHERMAN said, and he is so reported in the Congressional Globe, page 3564:

"Sir, if the result of that election had depended on the vote of New York we should have had war and revolution growing out of this state of things in New York."

This was said in the face of the fact that the Radical party, in the joint convention of the two Houses of Congress for the counting of the electoral votes of the election of 1868, had fully asserted, in the case of Georgia, the right to reject at its will the vote of any State without the "war and revolution" called for by the Senator.

he announced himself for the immediate organization and arming of the militia of Georgia; for putting guns into the hands of the negroes of Georgia to shoot down at sight every disguised man, so that, as he said, there might be murder all round.\* I may be wrong as to the bills then under debate; I am not wrong as to the sentiments expressed by the Senator. Now, this night, we hear him again panting for civil war, menacing civil war, declaring that he is for "general, universal civil war." True, he is for it, as he says, "to put down these things" at the South. That ground is none at all. You do not "put down these things" in that way. Yes, sir; now, in the seventh year since the war ceased, the Senator stands forward as the Sempronius of the Senate, and now, for the third time within a year, declares that "his voice is still for war." Sir, no man who knows what civil war is, no man who has faced its dread reality in the field or elsewhere, would take the place of the Senator in his demand for "universal civil war."

Sir, I know a great soldier who looked upon our civil war in its actual horrors, who strongly coped with it on many a hard-fought field. I think I know that he would never dream of another civil war as a cure for "these things" in the South. Never, never would he, before seven years are gone by since the surrender at Appomattox, menace the country with "universal civil war."

Sir, as I listened to the loud and passionate speech of the Senator from Ohio, and I might include the speech of the Senator from Vermont, [Mr. EDMUNDS,] who followed him on the same side, I was reminded of the scene between Snug, the joiner, and Peter Quince, in Midsummer Night's Dream. As the Senate will remember, Snug aspired to play the lion in the farce, but was doubtful of his ability. His friend was Quince. I do not know who the Quince of the Senate is upon this occasion, but we can all guess who the Snug of the Senate is.

Mr. EDMUNDS, (in his seat.) Oh, yes; there is no difficulty about that. [Laughter.]

Mr. CASSERLY. Mr. President, there is no jesting so easy as that which is uttered in

\*The debate was on April 4, 1870. (See Congressional Globe, pages 2398, 2400.) Mr. Sherman said: "And the very first thing that is done by the Legislature of Georgia should be to organize the militia, put arms in the hands of the negroes, and let them shoot down without question every man who is concealed and disguised under the cover of a sheet or any other disguise under which he carries on his crime. That is the only remedy, in my judgment."

Some time afterward, in the same debate, he said again:

"The Legislature of Georgia may convene the very day after this bill passes; the militia of Georgia may be organized, and arms may be put into the hands of the militia; and then if the Ku Klux Klan want to murder, there may be murder on both sides. There will be an armed militia; there will be guns in the hands of the negroes as well as guns in the hands of lawless white rebels."



an undertone, which nobody can hear except a little knot of *claqueurs* about the jester.

Mr. SHERMAN. Everybody could hear that and everybody applied it.

Mr. CASSERLY. No. Everybody could not hear it. I did not, for one, nor, I think, did any one about me. I never object to a retort, however sharp, when it is a fair one. It is not fair when it cannot be heard. I do not even know the assailant. He may be one whose ambition it is to be "of them that will themselves laugh to set on some quantity of barren spectators to laugh too." A Senator's ambition should be rather above that.

As I was saying, sir, Snug was ambitious to play the lion, but wanted to rehearse the part, and asked Quince if it was written. To that Quince says:

"You may do it extempore, for it is nothing but roaring."

So, sir, the part played here to-night is a very easy one: "It is nothing but roaring."

#### THE SHERMAN AMENDMENT REJECTED IN THE CONFERENCE.

I shall not discuss the Senator's section, which it seems was rejected in the conference. I have already examined it more at length, perhaps, than was necessary. I shall refer only to some remarks that have just been made by the Senator. He says his section gives a remedy as old as the English law. That may be. The remedy might be much older and yet be wholly unsuited to the present condition of things in this country. So the conference committee seems to have thought. The committee rejected it, but, by way of a very small tub to the whale, it adopted a section of which the most that can be said is that it is nearly impotent for good or evil.

The Senator asks, what is the objection to his section? There is no objection to it in the world except that it is unjust and oppressive, unless where it is impracticable; that it is most unconstitutional; that it is borrowed from a semi barbarous age, and spoiled in the borrowing, for it is ever so much worse than the law even of that age. For these reasons it is unsuited to the American people, whose Constitution it violates, who are not semi-barbarous, who are reasonably desirous, to the extent of their ability, to obey the laws and see that they are obeyed by others.

"What is the objection to it?" asks the Senator. Another objection to it is that the conference committee did not want it, and rejected it. Speaking the voice of the two Houses the committee threw it out. This has so irritated the Senator that, to have satisfaction for the slight put upon his section, he threatens civil war to ten States of this Union.

#### THE MOUTHPIECE OF RADICALISM.

I do not particularly impeach the Senator

for his clamor for civil war, now or heretofore. He is especially a representative man of his party. He is one of its most representative men in ability and position. He has a character for coolness and discretion. He is very much better than an average type of Radicalism. When he demands civil war he speaks as its mouth-piece. What must be thought of the temper of that party, of its fitness for governing the country, and especially the South, when we find one of its most trusted leaders clamoring here to-night, and not for the first or second time either within a year, upon any pretext for "universal, general civil war?"

I say, sir, it is not now for the first or the second time we have had the same frightful menace from the Senator. Had it been the first time I might have abstained from any comment; I might have treated it as a hasty ebullition of feeling, strange though that might seem from so cool and discreet a man as the Senator from Ohio is held to be. But, within my personal knowledge, it is not the first nor yet the second time that Senator, speaking from his high place here as a leader in his party, has hurled abroad throughout the land his terrible declaration of civil war.

It seems too horrible for belief; yet after such a threat by such a Senator, we may well ask, is civil war one of the desperate expedients by which Radicalism is ready to keep its hold on power?

#### INCENDIARY OR PERSONAL.

The principal difference between the Senator from Ohio [Mr. SHERMAN] and the Senator from Vermont [Mr. EDMUNDS] is, that while the Senator from Ohio was general in his denunciations and menaces, the Senator from Vermont was particular and personal in his invectives. Since I have had the honor of a seat here, and since I have enjoyed the acquaintance of the Senator from Vermont, there was a considerable time when it was possible for any one who appreciated justly the proprieties of this place, or the respect due by every Senator to his fellows to listen to that Senator with pleasure, if not with conviction. In those days it was the habit of the Senator to discuss great questions, if not with entire fairness and calmness, at least without personal invective and personal bitterness and offense. I am sorry to say that a change for the worse seems of late to have come over that Senator. I listened to him to-night as I have listened to him on other occasions. The astonishment with which I heard him was equaled only by my regret that he should so abuse his undoubted ability as to make it a means of attack upon the just sensibilities of his fellow-Senators and upon the proprieties of the Senate. Why, sir, is it not possible for us to discuss political questions here without being personal, without being unparliamentary?



Mr. SHERMAN. It seems not.

Mr. CASSERLY. I quite agree with the Senator. I am glad he recognizes existing facts. I should say, for instance, that a considerable part of the speech of the Senator from Vermont [Mr. EDMUNDS] was highly personal and unparliamentary, especially when, while he charged the people of the South with nearly every crime and infamy, he taunted Democrats with "standing by them as the dog stands by his master." This passage was but one out of many such. By and bye I shall speak of it.

The Senator from Ohio [Mr. SHERMAN] may not have been unparliamentary or personal. He was something a great deal worse. Probably it is not unparliamentary in a distinguished leader of the ruling party, while the embers of the late civil war still smoke, to threaten the country with another civil war. It is something infinitely more culpable. It is most mischievous and shocking. Have we not had enough of carnage, of anguish, of desolation, of civil hate, to satisfy the Senator and his party friends for a few years longer? Has not the country had enough, yes, more than enough, of debt and taxes to satisfy the distinguished chairman of the Senate Committee of Finance? If the "sheeted dead" who sleep on yonder heights at Arlington could fill this Chamber to-night, how those unwritten heroes of the conflict would turn with indignant horror from the demand of the Senator and his friends here for more civil war. Well might the conqueror of Mexico, who rests under historic turf, say, almost in a prophetic spirit, that the great trouble in restoring union and peace after the war would spring from the bad passions of the non-combatants. So said Winfield Scott; and truer word never did true soldier speak. To-night, sir, and many another night besides, I grieve to say, I have found in this Chamber confirmation of his words in the fierce, implacable resentments of the majority here, ever ready to burst out into fresh fires.

WHAT GREAT PARTY DECLARED "THE INABILITY OF THE CONSTITUTION" TO PUT DOWN THE CIVIL WAR?

The Senator from Vermont [Mr. EDMUNDS] charged, with more than his usual bitterness of tone and manner, upon the Democratic party, that as during the war all it saw in the "cause of the Constitution was inability to put down traitors," so now it sees nothing in it but "inability to put down assassins." Where does he find warrant for this bold assertion? What political party in the North was it that declared during the war "the inability of the Constitution to put down traitors," to crush out civil war? There was but one such great party organization. It was not the Democratic; though there were some Democrats who so held. It was the other great party at the North, the party which had the

power of the Government of the country, which so declared and so acted. I, who from first to last clung to the cause of the Union and of the Constitution, as I understood it, believed with the Democratic party that the Constitution, as my friend from Ohio [Mr. THURMAN] just now so well said, was always sufficient for war as well as for peace, and that there was within the Constitution power enough to cope even with that, the greatest civil war in history.

But, sir, what did the Senator from Vermont [Mr. EDMUNDS] and his party associates say and do? They said and did directly the reverse. They violated the Constitution because, as they said, it was necessary; it was a time of great public peril, and the Constitution had to be violated to deal with the crisis and to carry the country safely through. They said it—more than that, they acted it out—once, but often; not a few of them, but many of them; and practically all of them said so. Sir, that was precisely what the seceding States declared, that you could not constitutionally put down secession; and in the face of the nation and the world you put in your solemn cognovit that the declaration was true. I could consume the night stating your known violations of the Constitution during the war.

WHAT THE RADICAL LEADER IN CONGRESS USED TO SAY.

In those days you had a leader of your party in Congress, though not in this body. There was little either in his public or private life to win my respect. One great merit he had. He was no hypocrite, to pretend to be the thing he was not. He was free from cant. He led your party in Congress absolutely. He led it in the House, and he controlled it in the Senate. When he said, as he often did say, of many of the leading measures of your policy, that they were outside of the Constitution, and everybody but a perfect fool knew it, he spoke the honest truth as he saw it and as every intelligent man saw it. He would have spoken the truth, though he stood alone; but he did not. Many of his party sustained him in what he said, at the time. Many more have sustained him since. While I have sat here, I have heard more than one leading Senator of the Radical party avow and seek to justify its manifold violations of the Constitution during the war and since.

Yes, Senators, you were the men, you, the Radical party of this country, that declared by actions, which spoke louder than words, and by words, too, whenever words were needed, that under the Constitution you were unable to deal with secession, but that you were ready to violate the Constitution, that you had violated it, and you would continue to violate it, because, as you said, there was no other way out of the great peril.

I acknowledge the peril, but I deny the ina-

bility of the Constitution. I insist it was equal to the peril at all times. That great frame of Government was not the work of journeymen or apprentices, to fall to pieces at the first rude stroke of civil war. It was built by master builders who knew, if men ever knew, government in all its elements. They raised the fabric of our constitutional Union from its foundation-stone to its pinnacle, not for a day, but for all time; not alone for the calms and the sunshine and the splendors of peace, but for the whirlwinds, the thunders, the earthquake shocks of foreign, yea, of mightiest civil war. Democrats held then, as they hold now, that they libeled the Constitution who pretended to talk, who dared so to act, as if it was so made as to totter and fall at its very first great trial. Democrats held then, as they hold now, that in peace or in war the Government can always be carried on within the lines of the Constitution. We sought then, as we seek now, though vainly then as now, to keep the Republican party within those lines.

Sir, I fling back the charge on the accusers. Let them look to their own record. The one party in the country, and the only one, as a great national party, which declared the utter inability of the Constitution to cope with secession, was the Republican party of the United States. It is too much for human patience that now representative men of that party in this body, turning their backs on their own career, profess to believe that the cause of the Constitution in the mouths of Democrats meant its "inability to put down traitors," in the language of the Senator from Vermont, [Mr. EDMUNDS.]

NEITHER THE STATE OR THE FEDERAL GOVERNMENT  
COMPETENT TO PUT DOWN ALL DISORDERS.

Neither is it true that with Democrats now "the cause of the Constitution is its inability to put down assassins," again in the words of the same Senator. Somewhere in our frame of State and Federal Government, complicated, double, diverse as it is, there is the power to deal with all assassination and with every form of civil disorder.

All good men are agreed, no matter what heated partisans may say here or elsewhere, that the first necessity of American society is peace, order, respect for the law, security for person and property. No sensible man fails to see that great crimes are a great wrong to society. No sensible man in the Democratic party can help seeing that the worst injury that can befall that party is the occurrence of any disorders in the South, because we know that any disorders will be snatched at by the Radical party in Congress as a pretext for more reconstruction, for more military occupation, for once more carrying the elections by fraud and violence throughout the South from the Chesapeake to the western border of Texas.

Had we, as Democrats, no higher motive of action than mere party policy, we all, I hope, have sense enough to see that anything like encouragement of such disorders is simply the height of suicidal folly North and South. Hence it is idle declamation, or worse, for anybody to pretend that the disorders in the South, whatever they are, and I would not make light of them at all, find favor or encouragement from the Democratic party either at the North or the South.

IN WHICH GOVERNMENT IS THE POWER TO DEAL WITH  
THE DISORDERS IN THE SOUTH?

The only question is, where is the power to deal with those disorders? After all, that is where the real parting of the ways is between us and our political opponents. Is the power in the Congress of the United States, or is it in the State governments? I do not propose at this late hour, in a wearied Senate, to discuss the question at large. It would require a somewhat extended survey of the fundamental principles of our form of government, as well as of the authorities and of the late amendments of the Constitution. I shall confine myself to a few remarks. The cry so often heard in and out of this Chamber, that Democrats can find no power in the Constitution to put down assassins in the South, is the merest nonsense—

"A tale  
Told by an idiot, full of sound and fury,  
Signifying nothing."

Every crime committed within the United States is either a crime against the United States or a crime against a State. If it be a crime against the United States it is so because it is a crime under the Constitution and laws of the United States. Every such crime there is full power to punish under the Constitution. Democrats have no difficulty on that head. If it be not a crime against the United States, then under the Constitution there is no power to punish it. In that case it is a crime against the State where it is committed, and the power to deal with it is in the State. It settles nothing to declaim ever so much upon the inability or the ability of the Constitution. The Constitution has full ability within its sphere; it has none outside of it. Who here will venture to say otherwise?

The jurisdiction or power to deal with every crime being in some government, State or Federal, the next question in any given case is, in which government is the jurisdiction? To determine this question you have to determine whether the wrongful act is an offense against the peace of the people of the State or of the United States. All outside of this is mere sophistical declamation or arrant trifling. To my mind nothing ever debated among sane men is much clearer than the proposition upon which the Democrats in this Chamber have



stood, that the disorders in the South are, as they always have been, offenses against the peace of the people of the several States, and hence against the States; and that the power to deal with them is ample and clear in the States, and does not exist in the United States.

It is no objection to that position to say, "How then will you put down offenses against the rights, privileges, and immunities embraced in the fourteenth amendment, where the States are wanting in their duty?"

To this there are several answers. One is that under the fourteenth amendment Congress has no power to deal with such offenses in the manner proposed by this bill, by the direct use of the physical power of the United States in the first place. I content myself with stating the proposition. As I had occasion to say in the discussion in May of last year of the bill known as "the enforcement bill," the fourteenth amendment operates upon the States as States, and only by way of prohibition. It does not operate directly upon individuals. If it gives Congress any power over individuals, it is to furnish remedies against them in the Federal courts for wrongs done under color of State authority, and to enforce the writs, orders, and judgments of such courts. I shall not argue the point further at this late period of the discussion.

In the next place, if you had the power, you should not exercise it in any case that has yet arisen, except upon the call of the State. Though a State be wanting for a time in her duty why should you presume that she will not very soon see and repair the fault? Why insist, even if you had the power, upon putting the State under congressional correction and supervision?

I know your bill absurdly declares such a failure on the part of a State to be "rebellion." You might as well have called it by any other name. The fact remains that this main feature of your bill makes war upon the right of self government, which is the fundamental condition of our free institutions, and, indeed, of our existence as a free and great people.

The right of a people to govern themselves involves the right to govern themselves sometimes wrong. Free will, which is the common right of man and the vital principle of his action in a political capacity and in every other capacity, involves the right to do wrong. Hence it is that the idea of self government necessarily involves the idea that man is best left to himself to work out his own salvation, and that if so left, he will work it out more certainly and more readily than it can ever be worked out for him. This is peculiarly a cardinal principle of the American theory of government.

But what becomes of your self government if because a State errs she is to be taken up

and clapped into the congressional go-cart to make her go right? Is that the meaning of your self government? Have you no faith in the people? Have you no belief in the sober second thought of the people? Are you so unwilling to trust to the never-failing recuperative forces of the American State to deal with all disorders that may trouble it—forces that have always hitherto proved themselves ample for the purpose, working within the lines of the Constitution?

Why, sir, the history of the United States has been in a great degree a history of local disorders in the States, put down by the States. Before the Union, and while you had the Confederation, you had in Massachusetts a rebellion, at one time formidable enough to shake that State to its center, if not to menace the authority of the Confederation. That was dealt with and dealt with successfully by the State authorities.

The Dorr rebellion was also dealt with by the local authorities of Rhode Island. It was in one aspect of it a serious affair, because it sprang from a revolt of the people against an unnatural, unjust, and oppressive disfranchisement. The State, however, proved equal to the contest, coped with it successfully, and put it down. If my recollection serves me, Rhode Island called upon the General Government for aid, but, without receiving it, finally triumphed over the insurrection.

Mr. CARPENTER. Will the Senator allow me to ask him a question?

Mr. CASSERLY. Certainly.

Mr. CARPENTER. I believe in the case of Rhode Island the State applied to the United States for aid and the President announced the fact that he would grant the aid, and that announcement put down the rebellion. It was not put down by the State. It was put down under the authority of the United States and by the mere announcement by the President that he would interfere.

Mr. CASSERLY. Everybody will judge for himself as to that. I think what I stated was strictly correct. Even had the United States forces actually gone into Rhode Island they must have acted under the authority of the State and not of the United States. I am aware the President recognized the charter government of Rhode Island as the lawful government. I do not remember whether he announced that he would send the aid. He did not send it, as matter of fact.

Mr. CARPENTER. Simply because it was not needed.

Mr. CASSERLY. Precisely, that is what I say; that the authority of the State proved equal to the emergency, and that illustrates what I am saying, that the power of that strong, free, deeply rooted political community, an American State, has always, sooner or later,

and generally sooner rather than later, with or without aid from the General Government, proved itself equal to cope with any local disorders, however serious, however wide-spread, however obstinate.

Until the present Administration the General Government never actually sent its forces into a State, even on the application of the State, to aid its authorities to suppress domestic violence. Yet, I do not at all depreciate the moral power given to the State by her right to require the aid of the United States. What I say is, that always heretofore the authority of the State has been found able to suppress disorders within its territory without any actual aid from the United States, and without any such extraordinary legislation by Congress as is now proposed.

The anti-rent rebellion, as it was called in New York, convulsed a large, wealthy, and powerful district of that State for a long period. Formidable as it was, it arose out of a resistance to leases that on their face were moderate and reasonable enough. The people of the district, who, like their ancestors for generations, had lived under those leases, became at last impatient, and determined to get rid of them. For that purpose they resorted to illegal organizations, to secret societies, and to forcible resistance. They finally accomplished their object, but in the mean time the power of the State was put forth in suppressing the disorders, and the power of the State, though long baffled, finally prevailed.

I shall not occupy time at this late hour in citing other instances of the same kind in our history.

#### DISORDERS THROUGHOUT THE COUNTRY.

Why, sir, is it true that the South is the only seat of disorders? We know, on the contrary, that there are disorders all over the land at this moment. What do you say to Kansas, where eight men were hanged the other day by one band of midnight marauders? I can give them no better name. I regard all men who take the law into their own hands as marauders, as criminals, who deserve to be punished and to be put down. What do you say to the troubles in Nevada? What do you say to the troubles on a great scale in the mining districts of Pennsylvania? In Nevada they tortured one wretched prisoner by half hanging until they forced him to accuse others. A second prisoner they hanged till he was dead, the pretext being lest he might escape the law, though the proof of his guilt was more than ample. In Pennsylvania great bodies of workmen, smarting under a sense of wrongs done them and of greater wrongs threatened by vicious, if not criminal, combinations between the mining companies and the railroad companies, broke out into formidable disorders, in which much

property was destroyed, many lives lost, and the peace and the business of one of the largest coal and iron districts in the State were broken up for days together.

Does any intelligent or reflecting man permit himself to be too much disturbed or excited by such a state of things? It is no more than you should expect after such a war. The surges of that great commotion are still felt, though the tempest has ceased to blow. You feel them in every part of the country. Why expect of that part of the country which more than any other was the scene of that tremendous convulsion that it alone should be peaceable?

I do not discuss the question as to the difference between the character of the outrages, North and South. I remark only that it is a distinctive badge of secret, illegal organizations always, that they profess to act for the public good endangered by misgovernment, generally through vices in the laws or in their administration. In these times they are alike also in this: that they are a part of the long train of consequences of a great civil war. They show that the reign of force is still strong in the land, and that men, under real or imagined grievances, are quick to resort to violence instead of the law for redress.

#### THE ABILITY OF THE STATE TO KEEP THE PEACE.

Whatever the causes of the troubles, I do not doubt the ability of the State to deal with them in every case.

So long as I hold as fully and firmly as I now do, my faith in the right of the American people to self government and in their capacity for it, I propose to leave the matter to the States, to deal with by their own strength or with the aid of the United States, as they judge best. Before I can agree with the friends of this bill, I must agree that our system of government is a failure.

No, sir, there is no inability in the States to put down assassins of any shade or stripe, to put down any marauders either in disguise or without it, by night or by day; and there is nothing in the history of the country to warrant any man in asserting the contrary. You do not need to look for power in the Constitution of the United States. It is found in the constitution of each and every one of thirty-seven States. Who pretends to deny that the remedy which is applied at home by the people of the State against their fellow-citizens is much more likely to be efficient, to be permanent, than any that you can apply, even though you had the power? It is a mere begging of the question, it is a pure evasion of the issue to pretend that the point is whether the Constitution is able or unable to put down assassins and marauders, criminals not against the United States, but against the State. The question is not whether the Con-



stitution of the United States is unable to do it, but whether the Constitution gives you power over any crimes but crimes against the United States.

#### SENATORIAL INVECTIVES AGAINST DEMOCRATS.

Notwithstanding what we have been hearing for some days past from the Senator from Vermont, I was surprised to hear him say in his bitterest manner, while blackening the South with the worst crimes, that the Democrats stand as they have always stood by the South, "as the dog stands by his master." The Senator from Vermont was perfectly well aware that he was extremely personal and inexcusably offensive in that language, the more so that it was a part of a long, studied invective, not less personal and offensive. He knew there were fourteen gentlemen here, his peers as Senators, and his equals, I undertake to say, in every respect that distinguishes man among his fellows, who were Democrats. He knew that in uttering a sentence dripping with gall, as that was, he was affronting them one and all personally and wantonly. Was there anything in the conduct of this debate to excuse him in that affront? Is there anything in the proprieties of this body to protect him in it?

Why, sir, in a contest of that kind, while I could not hope to equal the Senator from Vermont in his peculiar faculty, developed by him so strongly of late, he ought still to understand that there are blows to be received as well as blows to be given. While I shall not be warranted in being unparliamentary even under the provocation given by the Senator from Vermont, I may say a few words on the text he has furnished us.

#### THE DOGS OF POLITICS.

The dog is a faithful animal. He has many excellent qualities. He has some faults. One is that he will fawn for fear or favor. Another is that he will bark or bite as he is bid, or as he dares, at the weak one in the gate. If I wanted to look around this country for the dogs of politics, who know how to bite when they safely may; to snarl when they may not bite; and who are ready always to fawn upon their master, I should not look for them among the Democrats of the country in or out of the Senate. If I wanted to look for the master of such dogs, I think I should know where to find him, and that not outside of this capital city where I am now speaking.

#### THE DEMOCRATIC PARTY, ITS RECORD IN HISTORY.

The Senator's fling was lacking not only in propriety but in discretion. The comparisons it suggests are not advantageous to his party. The Democratic party has no man or set of men for its master. Its only master is the Constitution of the country. That it follows;

to that it is ever faithful, with even more than the fidelity of the dog, if the Senator pleases.

In that great cause it is as ready to stand with an oppressed minority as a triumphant majority. Through evil report and through good report it has stood for the Union, for the Constitution, and for the laws as understood and expounded by the fathers and founders of our liberties. So it stands to-day, and so it will stand to the end. If in the tempest of our civil war it had passed away forever from the stage of action, what would have been the judgment of it and its career, even by an unfriendly historian? The most and the worst he could have said of it was, that in its devotion to the Constitution, in its love for the Union, in its deep conviction that the thing of all others necessary to the maintenance of them and of our republican free institutions was peace, it exhausted every mode and means of maintaining peace, and that its only error was in that; if indeed error could ever be in a policy of avoiding civil war to the last moment in the United States. That is the most and the worst that could be said against it. Being a party made up of men, of course it has not been infallible. The country and the world have seen but one such party. That is the party to which the majority in this body belong; the party of "moral ideas," attuned to the eternal harmonies; founded on the principles of immutable truth and justice as shown forth in *E pluribus unum* and the star spangled banner, and, last of all, in the "unwritten Constitution" of the Senator from New Jersey, [Mr. FRELINGHUYSEN.] which I take to be a political "inner consciousness;" having for its leaders the visible representatives of the Almighty goodness upon earth. It is, of course, incapable of sin and beyond the possibility of error. With such a party I do not compare the Democratic party. But, I say, comparing it with all ordinary human parties, it will stand the test of criticism by any candid or even by any uncandid historian.

Sir, the Democratic party of the country did not bring on the war. It has survived the war. It will long continue to survive it. Long will it continue to uphold, through weal or woe, the Constitution and the Union, and to maintain the States in all their rights of self-government. The States against which in this bill you have lifted your partricial hands were before the Constitution and the Union. They are essential to the Constitution and the Union. That great man, Alexander Hamilton, though so much in favor of a strong central government, uttered an ever-living truth when he declared that "the States can never lose their powers till the whole people of America are robbed of their liberties." That is the task to which the Radical party in this Congress is now addressing itself.

THE GRAND PLOT AGAINST ALL LOCAL SELF-GOVERNMENT—THE PRESIDENT A DICTATOR.

It has begun its work cunningly enough in the present bill; a bill which absorbs all the police powers of the State, all the rights of self-government in the States in regard to the security of the person and of property. The amendment of the Senator from Ohio [Mr. SHERMAN] did but speed the work of destruction in assailing the means of government in the counties, cities, and towns in the States. The whole is one grand plot against the entire system of self-government in the States. As step by step you deny the right of self-government, and thus cut away by degrees the vital principle of American institutions, how long will the great Republic stand?

Senators, by your bill you arm the President with unlimited powers of war and peace in the land; with power to make, construe, and execute law. You transform him into a dictator, of whom it is quite true to say, with the Senator from Ohio, [Mr. THURMAN,] that he is more despotic than any monarch upon a European throne out of Turkey or Russia. That is bad enough; but there is something far worse. It is your attack upon all right of self-government in the States. In this bill of yours you assume the protection of all rights of life, liberty, and property; of all privileges and immunities of the citizen. After that, what is left to the States in the way of local government? It is the deadliest blow you could aim at the American people. With a people still having the faculty of self-government, a despot is possible in a general delusion while it lasts. When the faculty is gone no change is possible except a change of despots.

THE LOSS OF LOCAL SELF-GOVERNMENT THE LOSS OF EVERYTHING.

Sir, men learned in the subject tell us that when in the human body you cease to use a muscle or a sense the muscle or the sense by disuse after awhile dies. To what do the American people owe their moral force, to what do they owe their fiber, intellectual and political? To what do they owe their power in every department of human effort? They owe it to the fact that, more than any other people of whom we have any record in history, they are a self-governing people. Do you think, sir, that you can impair or annul the function of self-government in the American people without weakening and in time destroying the capacity for self-government, and so the capacity to hold their ground or exist as a leading Power? At first, it is true, you only weaken it; but continue your policy, and by your centralization you destroy in time the use of self-government, the fact of self-government, the idea of self-government. You deprive the American people of all faculty of

self-government. You kill their capacity for any great or good thing. In a word, you take from them self-reliance, and with that their manhood.

We all know that is the first and the worst characteristic of a quack to treat symptoms instead of causes. If the political doctors of this body, who have so much to say about disorders in the South, would consider how very largely they are owing to the circumstance that self-government in the South has been destroyed, or at least in great part nullified, they would have made some progress toward a permanent cure. I wish they could even now raise themselves to the intelligence, to the patience, to the fairness of judgment necessary to enable them to commence that cure.

Why, Senators, has the history that for near a year in Europe has been unrolling itself before our eyes in characters so mighty no lesson for us? What have we seen there? We saw an ancient race, a great empire, famous in history, beyond all other things, as a mighty military Power, crushed to powder in six months by an antagonist young, new, almost unheard of, and untried on the battle fields of Europe. Why was it? Was it that the Frenchman had lost his manhood, his brightness, his resource, his organizing faculty, his buoyancy of spirit, his martial gallantry and ardor? If so, why was it? What sorcery had so transformed a race once so potent in war?

CENTRALIZATION THE FATAL EVIL OF FRANCE.

The sorcery was that France had been centralized to death. The central power in Paris had assumed to itself almost wholly the local government of all the provinces of France and of every municipality of France. I saw it stated, upon what seemed good authority, that to such a pitch was centralization carried under the empire that in the most remote village of France a man could not repair the street in front of his cottage without an order from some bureau in Paris. That is what you are bringing the American people to, by your policy, as fast as you are able to force your laws through Congress!

The centralism of the French empire was very bad. Yet under the French empire there was more liberty left to the municipalities, the parishes, and the towns than the Senator from Ohio [Mr. SHERMAN] would have left to the cities and the counties and the towns of the States of our Union—much more. The town hall, the parish church, the school-house, the hospital, the poor-house of the French municipality or the French town were as sacred to the uses of government as the town hall of the city of Paris. Call Louis Napoleon a despot if you will. For myself, I never respected the fraud and violence by



which he seized power. I always distrusted the outward glories and material progress of that empire of his. I thought I saw the worm at the root of that stately tree, though I could not know of the interior rottenness or foresee the sudden and ruinous fall. But never in his greatest power did even Louis Napoleon venture on such destruction of local self-government throughout France as was proposed by this bill as passed by the Senate last Friday, containing, among other enormities, the section of the Senator from Ohio, [Mr. SHERMAN.] In charity to Senators, I prefer to think that the passage of the bill here was owing to the circumstance that few of them had given to the subject a tithe of the attention it demanded.

HOW GREAT MEASURES ARE CONSIDERED IN THE SENATE BY THE MAJORITY—THE PROPRIETIES OF THE SENATE.

I say that because we know how business is transacted here. During the discussion the night before last upon some features of the bill, a discussion certainly interesting and important, by reason of the subjects discussed if for nothing else, there was not one fifth of the Senators on the other side of the Chamber present. The discussion was addressed to the minority here and to the President and to the clerks whose duties compelled them to be present. No, sir; it little becomes gentlemen who are capable of dealing with such subjects in such a spirit to revile a party like the Democratic party, which is nearly as old as the history of this country, and which, I am confident, will live in its distinctive principles as long as the Union lives and as long as the American race shall be a race living under democratic representative institutions. It ill becomes men who deal with such subjects in such a spirit to assail the Democratic party, as has been done more than once in the Senate in debate on this bill, by words of opprobrium, by invectives that would be improper in any decent society, and that are most un-

becoming and unfit to be used by a Senator among Senators under any circumstances whatever.

Of course, as my friend from Delaware [Mr. BAYARD] now suggests to me, an honorable or right-minded man understands that the law of order which binds us all here puts a marked limit upon statement, upon expression, even upon just denunciation. Who is excused for putting a wanton indignity on another in a place where it cannot be resented as it deserves? We know very well that there are affronts which may be offered by one Senator to another that never can be fitly redressed here. Knowing that, every right-minded man must see that his duty is, if needed, to put a restraint upon his temper, a curb upon his tongue.

I had hoped that we should be able to adjourn without a renewal of the scenes which we have gone through for the last week or ten days, and notably within the last four or five. They are extremely unpleasant even to speak of now. If they give any satisfaction to those who promote them, I am sure I do not envy their tastes. I sincerely trust never again to be obliged to speak of such a subject in this body.

The conference report was adopted—yeas 36, nays 13; as follows:

YEAS—Messrs. Ames, Anthony, Boreman, Caldwell, Carpenter, Clayton, Cole, Conkling, Cragin, Edmunds, Fenton, Ferry of Michigan, Frelinghuysen, Gilbert, Hamilton of Texas, Harlan, Hitchcock, Howe, Lewis, Logan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Patterson, Pomeroy, Ramsey, Rice, Sawyer, Scott, Sherman, Spencer, Stewart, West, Wilson, and Wright—36.

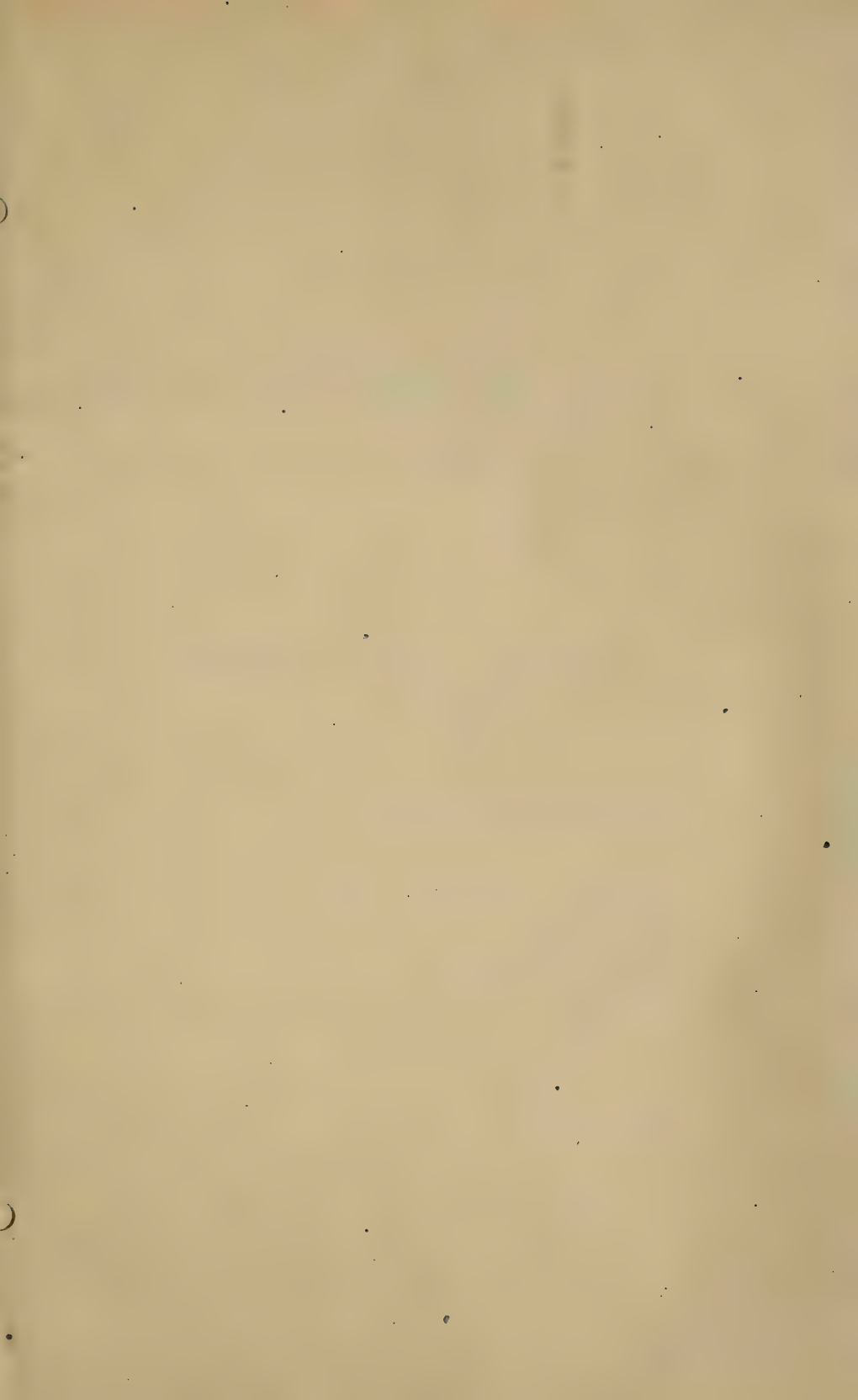
NAYS—Messrs. Bayard, Blair, Casserly, Cooper, Davis of Kentucky, Davis of West Virginia, Hill, Johnston, Kelly, Robertson, Saulsbury, Stockton, and Vickers—13.

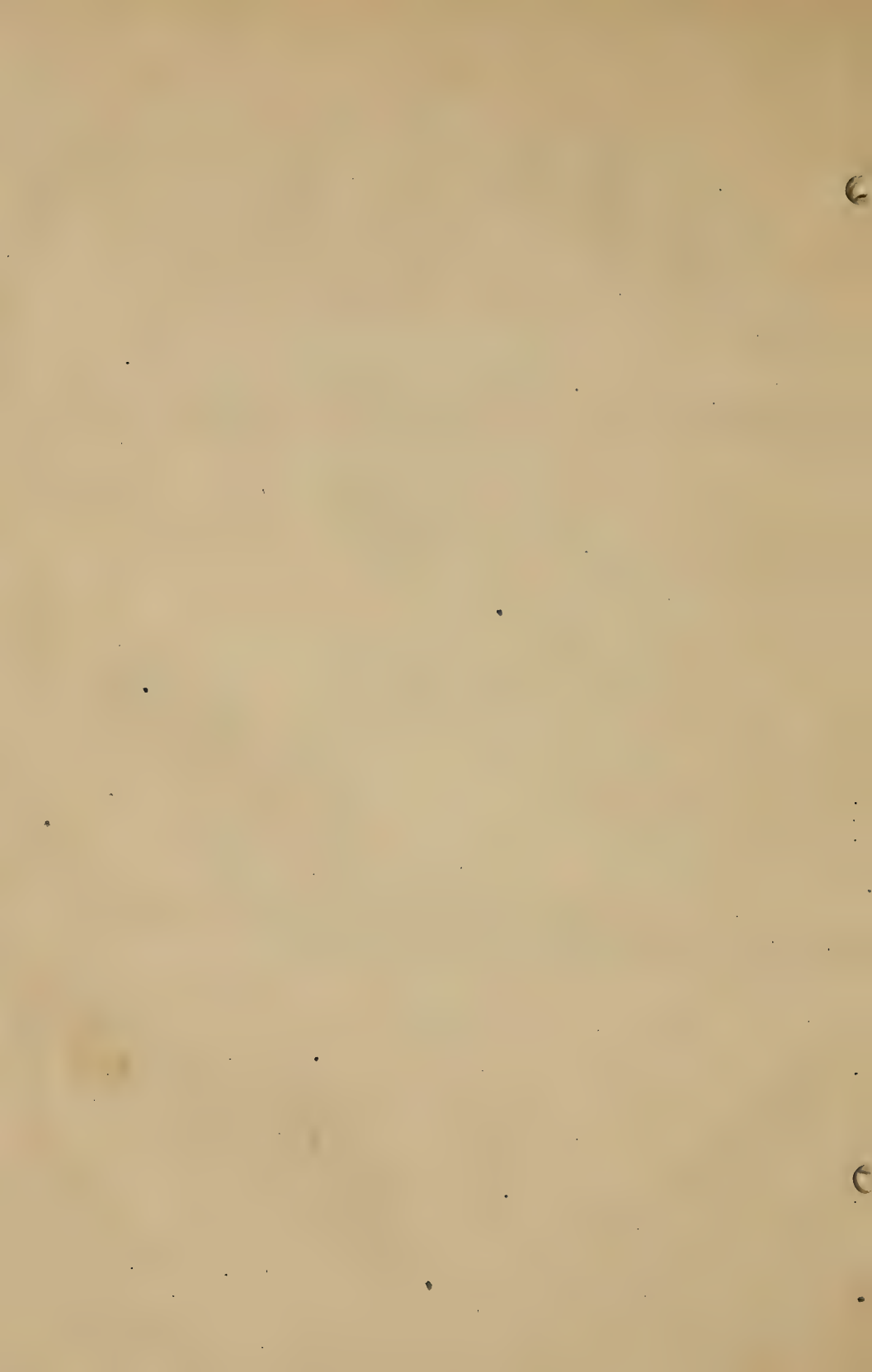
Of the Democrats, Messrs. THURMAN, HAMILTON of Maryland, and STEVENSON were paired with Radicals.

So the bill passed as reported by the conference committee.









SPEECH

OF

HON. CORNELIUS COLE,  
OF CALIFORNIA,

ON

ARMING THE SLAVES.

DELIVERED IN THE HOUSE OF REPRESENTATIVES,

FEBRUARY 18, 1864.

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WASHINGTON, D. C.:

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## S P E E C H .

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The SPEAKER stated that the next business in order was the consideration of House bill No. 51, to establish a Bureau of Freedmen's Affairs, reported from the select committee on the subject, on which the gentleman from California [Mr. COLE] was entitled to the floor.

Mr. COLE arose and spoke, as follows :

Mr. SPEAKER, since obtaining the floor last evening, I have found a little time to condense such views of this bill as I wish to present to the House, and the few notes I have prepared will contribute sensibly to that desirable end. The time of this body while the war lasts, I say it with all deference, is too precious to be taken up with vain utterances, and I acknowledge to a very considerable degree of diffidence, lest betrayed I should be into the use of unnecessary words.

It is clear now that the learned gentleman from Ohio [Mr. Cox] who last addressed the House on this question, and who has written a book, has not always entertained the opinions in reference to the negro that are generally accorded to him. The elegantly written extracts that were read by the distinguished gentleman from Illinois [Mr. WASHBURN] from *The Buckeye Abroad*, show that when its author was in Rome he did as the Romans did,\* and I entertain a

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\* Mr. Cox, in his book of travels in Europe, describing St. Peter's, says : " In the mean time seraphic music from the Pope's select choir ravishes the ear, while the incense titillates the nose. Soon there arises in the chamber of theatrical glitter, a plain unquestioned African, and he utters the sermon in facile Latinity, with graceful manner. His dark hands gestured harmoniously with the rotund periods, and his swart visage beamed with a high order of intelligence. He was an Abyssinian. What a commentary was here upon our American prejudices ! The head of the great Catholic church surrounded by the ripest scholars of the age, listening to the eloquence of the despised negro ; and thereby illustrating to the world the common bond of brotherhood which binds the human race.

I confess that, at first, it seemed to me a sort of theatrical mummery, not being familiar with such admixtures of society. But, on reflection, I discerned in it the same influence which, during the dark ages, conferred such inestimable blessings on mankind. History records that from the time of the revival of letters the influence of the church of Rome had been generally favorable to science, to civilization, and to good government. Why ? Because her system held then, as it holds now, all distinctions of caste as odious. She regards no man, bond or free, white or black, as disqualified for the priesthood."

lively hope that when he becomes fully convinced that it is the fixed purposes of the nation to put down this insurrection by force, and in no other way, he will again pay respect to the injunction, "when in Rome do as the Romans do," and heartily co-operate with this side of the House, lending his powerful influence towards bringing about a peace in the only proper way. In fact I thought I discovered in some of his expressions last evening the outcroppings of genuine abolitionism. I should feel a little more certain on this point were it not that another and rather antagonistic idea seem to predominate throughout the gentleman's speech. He appears to be troubled with a sort of hallucination that the project to establish a Bureau of Freedman's Affairs is one grand scheme for the amalgamation of the white and the black races, nothing less, nothing more.

I have in vain tried to discover how the providing means of subsistence for the freedmen, and all the comforts that flow from paid industry, can have a tendency to promote amalgamation. And, notwithstanding the gentleman's most virtuous indignation against the bill, springing out of this idea, I am equally at a loss to know how persons who are exercising their own volition, and have perfect freedom of action, are any worse off in regard to this matter, than those whose purposes are subordinated by law to the desires of others.

If the honorable gentleman will consult the census reports he will find that the number of mulattoes in the single State of Virginia was some ten thousand more than in all the free States put together; and if his statement, made yesterday, be correct, that mulattoes do not propagate, it leaves a very strong presumption that amalgamation had something to do with this result.

The gentleman entertains strong feelings of distaste toward this side of the House, because, as he somehow infers, we are theoretically in favor of amalgamation; and I will not quarrel with that feeling so honestly entertained by him; for I remember that *de gustibus non disputandum*, and this business of amalgamating is purely a matter of taste. But how happens it that the very learned and astute gentleman from Ohio never conceived any disgust toward his quondam friends down South, who, as the census shows, were so very much addicted to the practice of amalgamating with their black slaves?

I will now turn from the honorable gentleman from Ohio to the proper consideration of the bill; not a more agreeable subject, to be sure, but more profitable, I hope, and I leave its humanitarian, its eleemosynary points for the consideration of gentlemen on the other side of the House, whose new-born affection for the black man renders it entirely safe to do so. I propose only to give attention to its bearing upon the war

Power is virtue in a belligerent. A nation at war ought to strengthen itself in every possible way, or give up the strife. It is worse than folly, it is criminal, to protract a deadly conflict unnecessarily.



This bill to establish a Bureau of Freedmen's Affairs proposes, in effect, to shorten the war. The means of doing it are within our reach, the duty is before us, and we are called upon to act.

The reasons for employing colored men in the military service of the Government, and especially such colored men as are or have been in slavery, are to my mind overwhelming, and I feel constrained to urge extraordinary measures, if necessary, to obtain such service. The bill under consideration must have a powerful tendency to promote this object, and ought therefore to find the favor of loyal men. I choose to consider it from this point of view, because the exigencies of an active, long-continued, and still vigorous rebellion are upon us. In peace times I should consider it in altogether a different light.

The bill provides for the taking in charge by the War Department of the freed people of the country, "to the end that said freedmen and the Government of the United States shall be mutually protected, and their respective rights and interests duly determined and maintained." This I understand to mean that when these people, like any other people, are needed by the Government, so many of them as are fit to bear arms may be thus employed. At all events, there is nothing in the bill to prevent such employment of them, and there appears to be great propriety in giving their supervision to the War Department, at least during the war, rather than to the Department of the Interior, or even to the proposed new Department of Industry, because they can then with greater facility be called into the military service of the Government whenever an emergency may require it.

I do not favor this feature of the measure because of any inability on the part of our white soldiers to maintain themselves. They have done this to the full extent of every reasonable expectation. They have driven in the rebellion on every hand, and routed the minions of treason from many a stronghold. Every fair contest in this war has shown that

"Thrice is he armed that hath his quarrel just ;  
And he but naked, though locked up in steel,  
Whose conscience with injustice is corrupted."

Viewed as a question of expediency, the argument in favor of a colored soldiery is none the less. If the Republic possessed ten times the astounding strength it has already displayed, and if the usurpation at Richmond were much weaker than it has ever appeared to be, still should we employ this agency in sustaining the former and crushing the latter. As Republicans we should favor it, as Democrats should we favor it, and as Abolitionists especially should we favor it. It is a matter that appeals directly to our philanthropy. It involves the interests not of this country alone, but of all countries ; not of the living

merely, but of all generations. It will most surely uproot and destroy slavery from the face of the earth. The example will not be lost upon the only American monarchy, slaveholding Brazil, nor upon the few Spanish American colonies that still foster the barbarous practice of chattelizing humanity. Carry into practice the provisions of this bill, and the New World, at least, will be free again as when first created, and all men be permitted to pursue their own happiness here unmolested by tyrants.

It would be unfair to leave this childlike people uncared for while the stalwart among them are fighting the battles of liberty for us as well as themselves; and equally so to turn them off upon the cold charities of a dominant race after the battles are over. Under the proclamation of the President they became the wards of the Republic, and we cannot, with any show of justice, disclaim the guardianship. Dispel the clouds and darkness that villanous local laws have imposed upon their minds, and they will no longer need our care.

It will not be possible, in the short time allotted, to revert to all the arguments in favor of this bill, but some of the reasons for it are so patent as to force themselves upon attention. While the scheme will much alleviate the new condition of self-reliance of these people, it will impose no new burdens upon the Government; on the contrary, it promises to yield a handsome revenue to the public treasury. At the same time, and above all, it will so strengthen the national arm as to speedily crush out the rebellion. To this war view of the subject alone, then, do I approach, for these are war times.

Contrary to the general opinion entertained two years ago, or less, the American descendants of the African make excellent soldiers. This has been demonstrated on numerous battle-fields, and in some of the most desperate hand-to-hand conflicts of this war. The testimony of officers over them is full and singularly uniform on this point. Only the other day, in the Chronicle of this city, was the following:

"General M. M. Crocker, of Iowa, one of the very best officers of the Army, who early entered the public service, and was an unswerving and leading Democrat in that State for many years, writes from Vicksburg, where he is now stationed, to a friend in Des Moines, under date of January 12, 1864, as follows: 'The negro regiments now form quite an element in this army, and it is astonishing how completely all prejudice on that subject has been done away with. They make good soldiers—mild, good-natured, and respectful to their officers—easily managed, and, as far as they have been tried, fight as well as any troops.'"

And so, whether the testimony come from Vicksburg, Port Hudson, or before Charleston, from Louisiana, Tennessee, or North Carolina; whether from the general who has been taught from his infancy to despise the negro, or from him whose faith in humanity was imbibed from the Puritans, it is the same. Few of these people comparatively have been put under arms in this contest, and they but recently, yet have they achieved for themselves a new and certainly a brilliant reputation. We were told they had been known to fight well under other

flags, and that regiments of them had become famous in the wars of the East and also the West Indies; but they were not counted upon to sustain "the flag of our Union." Our excessively chivalrous Democratic friends were horrified at the bare idea of arming in defense of the nation what they were pleased to term property, and it was only when drafting approached too closely that they could see any virtue in it.

It is a favorite theory among persons educated at the Military Academy, that all men under similar circumstances of discipline and physical condition are about equally brave; that if there is any difference, it is owing to the bodily and not to the mental structure of the individual. And pleasant it is to find in that school of theories, one theory that is so nearly sustained by the experiences of this war. What with his physical training and discipline to obedience, the colored man will fight, and as bravely, I trust, as his white companion in arms. There is one characteristic about these people that eminently fits them for the sternest realities of war. They manifest more sympathy toward each other than do the white soldiers; and, as a consequence, instead of scattering they become gregarious in time of danger, and maintain the strength that is always found in union. They seldom, if ever, abandon their comrades in distress. During the many expeditions that our soldiers have made within the rebel lines, this peculiarity of the colored population has been observed. The aged, the infirm, and the helpless young have been the objects of their chiefest solicitude while escaping from bondage. Often in this war has the flight of Virgil's hero been illustrated. Many a swarthy Æneas has borne away upon his shoulder some old Anchises, while leading his little Ascanius by the hand, followed by his faithful wife carrying a little bundle, their lares and penates, from the cruel confederacy.

Another reason for strengthening the military arm of the Government by the employment of this agency, is that the slaves join the Union forces with alacrity whenever an opportunity offers. This is not regarded by them as a political contest, and party feeling never intervenes between them and duty. Convinced the freedman of the rebellious States that downtrodden humanity needs his assistance, and at once he seizes his weapon and goes into the ranks. Instances are related where they have resorted to the most ingenious expedients to conceal physical defects in order to get into the army; and they have wept with disappointment over the adverse decision of an examining physician, so anxious have they been for immolation upon the holy altar of liberty. Here is patriotism; here an appreciation of that old Roman adage, *Dulce et decorum est pro patria mori*.

But the freedmen of the South are better fitted by nature and habit than the northern people to endure the climate of the insurgent States, and the toils incident to the life of a soldier therein. This is attested in many ways, but in none more forcibly and sadly than by the hecatombs filled with noble young men who perished in the swamps of the Chickahominy, victims not more of the climate than of the sickly sentimentality of that miserable specimen of a general whose chief solici-



tude, while leading a patriot army, was to guard rebel property and return fugitive slaves.

Colored soldiers will meet with the sympathy and hearty co-operation of the entire colored population of the South; and if it is demonstrated by a solemn act of Congress that their hitherto downtrodden race is to be lifted up and be made the recipients of national kindness, the white soldiers that are assisting to bear aloft the American flag will be equally welcome among them. This will give to the Union forces an advantage that has probably not been so fully enjoyed by an army in an enemy's country since the world began. It is an advantage that cannot be over-estimated. Why, the idea of an invasion by these people is terribly discomfiting to the usurpers, and hence their desperate exertions to deter us from obtaining their aid, by indiscriminately murdering all negroes found under arms, or in the uniform of the United States, as also the officers that lead them.\* Their most barbarous treatment of our poor friends in the Richmond prisons is instigated by their fears upon this point. They dare not recognize their former slaves as soldiers to be treated according to the rules and laws of war. The weapon in the hand of the slave is truly the Ithuriel spear; the rebellion writhes under its touch. An army of colored men becomes an army of liberators in every sense; and if you would put a speedy termination to this war, this awful war, arm so many of these people as will bear arms, and take good care of the balance. Ay, sir, put one of John Brown's pikes in the hands of every traitor's slave, and let him earn his liberty. Men that would not be content with all the choicest blessings of the Republic are unfit to live in it. Let them perish. Mercy to them is cruelty toward God and humanity. Whom the gods wish to destroy they first make mad, and though these people are beside themselves, yet are they sensitive to danger. They fear the men they have scourged in the pride of their power. The maned lion is not more dreaded by the lonely traveler in Africa, than is he whose fathers destroyed the lion by the trembling despots at Richmond.

The SPEAKER. Will the gentleman from California suspend a moment, in order that the House may receive a message from the Senate? The Secretary of the Senate announced the message.

Mr. COLE continued: I was about to say, Mr. Speaker, that every slave added to the Union Army is, in effect, also taking a soldier from the ranks of the rebels. The efficiency of an army depends upon how it is fed, clothed, and furnished. Without supplies it will fall to pieces in three days; and the man at home laboring for its support is as indispensable to its strength as the one that carries the musket. The plow is equally useful to the belligerent with the gun, and the sickle

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\* "Should they (the negroes) be sent to the field and be put in battle, none will be taken prisoners—our troops understand what to do in such cases. If any negroes have been captured during the war as soldiers in the enemy's ranks, we have not heard of them. We do not think that such a case has been reported."—*Richmond Examiner*.

with the saber. The ex-Secretary of War and his cohorts are so hotly pressed to maintain their ascendancy that they have ordered into their service, as we are told, all able-bodied white men within their lines between the ages of eighteen and sixty; and the rebellion will therefore soon be utterly dependent upon slave labor for its support. By so much, then, as you withdraw this support, by so much do you weaken the rebellion. And this, it seems to me, presents one of the most powerful inducements for the Government to use all available means to enlist colored persons in its service, and to withdraw their support from the rebellion.

But there is still another argument. Those ingrates who hold nightly carnival at Richmond over the wasted victims of famine, and whose requital for support long rendered is torture and death—these fiends in human shape have already entailed upon this Government, which they cannot destroy, an enormous public debt; and it is a matter of the first importance to prevent as far as possible its augmentation; and among the liveliest considerations for engaging the colored man in the Army is, that it is great economy to do so.

The African's powers of endurance, whether marching under a southern sun or laboring in intrenchments, surpasses that of the white man, and as a consequence his sanitary condition is better. So far as I have been able to gather facts, it excels that of the white soldiers in the proportionate of five to one.

It has been stated—I do not vouch for the fact, for I have not the data before me—that since this war began as many of the Union soldiers have perished from disease and hardship as in battle. If this be true, or nearly true, it furnishes another strong argument to the point under consideration.

Besides the hardiness and prudence of the colored soldier, he possesses a most commendable aptness for subsisting himself in an enemy's country. The training he has received, in many instances from niggardly masters, eminently fits him for this important duty.

But there is another point of view from which it will appear to be great economy to employ slaves as soldiers. A sufficient and satisfactory bounty for them, if we offer them no more, is their freedom and that of their race. They demand no further subsidy than the privilege of vindicating their rights, their "unalienable rights," of life, liberty, and labor. And shall we not accord them this poor privilege? Rather, shall we not avail ourselves of an opportunity to save millions upon millions which otherwise would need to be paid as bounties in order to keep filled our serried ranks? The aid of the bondman to humble or destroy his, and our would-be, oppressor can be obtained without the expensive routine of the enrollment and draft; and it shames me that he whose participation in the blessings of the Republic has been so limited should be among the foremost in its defense.

Another fact must not be overlooked. Desertions rarely occur among the colored troops.

From the general framework of our military laws, one is forced to the conclusion that it has been the purpose of the country to fill up and keep up the armies from other sources, and quite independently of the slaves.

The enrollment act as it now stands reads, "all able-bodied male *citizens* of the United States" shall be liable to do military duty; and this in the face of the fact that colored people are not counted citizens, certainly not in the States where slavery is now or was lately practiced. So that this class of people have been virtually excluded from military duty under the law. And in the amended bill that passed this House on Saturday last you have incorporated a provision making them a part of the national forces; but you declare that the usual bounty payable to the drafted man shall not be paid to the colored soldier when drafted, nor to his family, but to a third party, even to the man to whom that same soldier has, upon compulsion, rendered the service of a lifetime. What justice, what logic in such a law? It is the old justice of the slavemonger still. It is the logic of the tyrant; and shall we never rise above them? Must our Republic be further scourged with bloody thongs before we can do right?

There is little room for disagreement among loyal men upon the proposition that our army ought to be increased; and is this policy of discouraging enlistments with a whole class to be continued, even by implication? Such certainly will be the just inference if we now fail to adopt the provisions of this act for a Freedmen's Bureau. Do gentlemen suppose that we have already enough colored troops in our army, and that we need no more of them? Or has the cruelty of the rebels toward these men deterred the Congress from tendering an equal provision to avail ourselves of their further assistance? Would the traitors, think you, forbear to make use of such an agency if they had it within their reach? While they dare not put arms in the hands of slaves, they are nevertheless conscripting them to labor on fortifications. In the *Globe* of but the other day was a statement that Extra Billy Smith, now Governor of old Virginia, lately of California, (and an exceedingly anxious candidate for United States Senator from there,) had ordered a draft for five thousand slaves in certain counties, to work on fortifications. Neither General Smith nor any other traitor has any scruples about this matter.

As to the feasibility of obtaining colored recruits, it is preposterous to deny it. We have already, according to reports, some fifty to a hundred thousand of them in the school of the soldier or under arms. Nearly all of these are from within the rebel lines, and there are full half a million more of them there, precisely in the predicament of so many prisoners, scattered over half a million square miles, surrounded by an imaginary wall thousands of miles in extent. Only encourage their coming forth, and the entire rebel army, though it had no other duty, would present but a feeble barrier to their escape.

I will read an extract in point from a letter from the Colonel of the



Second United States Colored Cavalry, dated Fort Monroe, January 15, 1864. It will throw a flood of light upon this subject.

"The progress of these two cavalry regiments is really wonderful. I commenced recruiting the second two weeks ago last Friday, and last Saturday—fifteen days—I had the second regiment full, and camps built, and men in camp drilling. They have comfortable stockaded tents, and fine clean quarters; cost to Government, two kegs nails and two thousand feet roofing to cover commissary and cook-houses. They cut all the poles and built the stockades and cook-houses, and the brick cook-ranges from old bricks. No better camp exists, or better kept, and these men drill creditably already, and not one has needed a reprimand yet, nor is there want of discipline. Uncle Sam never had as cheap a regiment raised before, and I think few better ones than this will prove itself to be in time. I am confident and hopeful, for I know this colored cavalry will be a success. When stripped for medical examination, nearly all are found to have awful whip scars, and when I asked one oldish chap, with a horrible back, if he meant to settle for it, he answered, 'I've been at that two years,' and on looking closely, I found he was our guide on the Kinston and Goldsboro' march, and piloted me to that battery my company took by assault, where I earned my leaf. Another burly chap kept looking at me, and to my astonishment I recognized a once skeleton that was attracted by my firing to the edge of a swamp, and suspiciously gave himself up. After being fed he returned and brought out four more wretches, all that were left of some sixteen that had been escaping for four months, the balance having been killed by dog and gun. We had the gratification of breaking up the pack of dogs that had been used. The leading trailer was sent to Syracuse as a curiosity. She was Cuba all over. We wanted to wring the owner's neck, but he was a non-combatant. I find in these regiments lots of contrabands I have picked up in raids, and it attaches them to me, to know I was their usher into liberty. I expect trouble to restrain these men when active duty comes; there is bitter and vindictive feeling in nearly all. The slaves are quite willing to pass through a Red Sea of traitors' blood to make their exodus from bondage into the Canaan of liberty."

It is gratifying to know that some of our officers have a keen appreciation of the advantages to flow from this arm of the service; and among them, as worthy of mention, is that live man who fully understands the rebel character, and comprehends the emergency, Major General Butler. How far they are to be supported and encouraged by the Government rests with this Congress, and that is the question.

There is too much of the chivalrous spirit of McClellan and Porter and Patterson, in the army yet; too much of West Point punctilio, and too little of earnest determination to conquer. Unless this nation awakes to the emergency, and takes hold of the instrumentalities that God in his wisdom has provided, this usurpation will not be put down.

The people have not yet fully made up their minds that slavery, the Jonah of our ship, must go overboard. Gentlemen on the other side of the House seem exceedingly anxious to save some remnants of it; and if for that end they will discourage the enlistment of white men, much more may they be expected to oppose the enlistment of negroes, which at once strikes at the root of slavery, and saps the foundation of their party. It will require greater audacity than most of the gen-

tle men on that side of the House possess, to return to slavery a man after he has fought for his country.

In my judgment, this war is not nearly over. It possesses a most dangerous element of desperation; and unless you are willing to totally discard the policy that at first and for a long time controlled it, by arming the slaves, you will not soon see the end. Already a thousand days and nights have the people waited and watched, but peace has not come. Hope has frequently brought it to our doors, but like a phantom has it fled again. Self-delusion may be a pleasant, but it is a most unprofitable business. Armies will move in the spring; other battles will be fought, and fields now unnamed will become noted in the history of this war. Its greatest hero is perhaps still unknown to fame. You may depend upon it, peace has been already postponed by our acting upon the belief that it is near. We have turned aside to discuss the rights of traitors, to the forgetfulness of the more important rights of humanity. The so-called rights of rebellious States have received a great deal of attention at our hands already, and all to no purpose, unless you first put an end to the rule of the slaveholders there.

This that we are dealing with is in no proper sense a rebellion as understood in this day. It is a most impudent usurpation of power by a little junta of men who had been too long trusted by the people. From the very commencement they have maintained themselves by military rule, and in no other manner. They have entirely discarded the plainly expressed will of the nation, and boldly undertaken to subvert free government. The wonder is—if there be anything wonderful under the sun—that they should have had the unbridled audacity to undertake this thing while professing to be Democrats, and to respect republican institutions. But to the philosopher this may not seem strange.

The contest between truth and error is not less active now than at any former period of the world's history. It is said, truth crushed to earth will rise again; and the same should be said of error, for it is constantly putting on new habiliments, the better to appeal to the passions of men. In fact, nothing has yet appeared upon earth, however good, wise, just, or beneficent, but it has met with opposition. Persecutions did not begin in the case of John Brown of Ossawatimie. Even He in whom both Jew and Gentile now concede there was no guile, was pursued, persecuted, and crucified in his own country. Galileo was forced to disavow his sublime theory of the planetary motions. Socrates the Just was made to drink the fatal hemlock. Religion, science, literature, law, government, have advanced through strifes, contentions, blood. As a general rule, the greater the virtue the more violent the assaults upon it. And our glorious Republic constitutes no exception: its destruction is sought, and no cause whatever is alleged by its assailants for their wicked course.

Apologists for crime have always been found; and this great crime, this crime against the whole human race, this crime, scarcely second in magnitude to the crucifixion, does not lack its apologists. They are

found everywhere, even in this Capitol. But no traitor, no abettor of treason, has had the temerity to charge any wrong against the Government of the United States. On the contrary, up to the very moment of the breaking out of the rebellion, it was proclaimed by men of all parties, and everywhere, to be the wisest, the best, most just and beneficent Government that had ever been established in the world. And none were so loud in these declarations as were the very persons who for the last three years have been trying to overthrow it; and none had enjoyed its blessings to so great a degree.

Alexander H. Stephens, lately a member upon this floor, and now the usurping vice-president, addressed a convention in his own State of Georgia, after the rebellion was inaugurated, and made use of the following language :

"Pause, I entreat you, and consider for a moment what reasons you can give that will even satisfy yourselves in calmer moments; what reasons you can give your fellow-sufferers in the calamity that it will bring upon us. What reasons can you give to the nations of the earth to justify it? They will be the calm and deliberate judges in the case; and to what cause or one overt act can you name or point on which to rest the plea of justification? What right has the North assailed? What interest of the South has been invaded? What justice has been denied? And what claim founded in justice and right has been withheld? Can either of you to-day name one governmental act of wrong, deliberately and purposely done by the Government of Washington, of which the South has a right to complain? I challenge the answer."

\* \* \* \* "Leaving out of view, for the present, the countless millions of dollars you must expend in a war with the North; with tens of thousands of your sons and brothers slain in battle, and offered up as sacrifices upon the altar of your ambition—and for what, we ask again? Is it for the overthrow of the American Government, established by our common ancestry, cemented and built up by their sweat and blood, and founded on the broad principles of right, justice, and humanity? And, as such, I must declare here, as I have often done before, and which has been repeated by the greatest and wisest statesmen and patriots in this and other lands, that it is the best and freest Government; the most equal in its rights; the most just in its decisions; the most lenient in its measures; and the most inspiring in its principles to elevate the race of men that the sun of heaven ever shone upon."

No parallel for this rebellion can be found in history. The conspiracy of Cataline approximates it most closely; but the Government against which he plotted possessed few of the excellencies of our own. In one particular have our American traitors faithfully copied after their Roman exemplar. They sought to destroy the Republic while yet intrusted with its affairs; and as with Cataline, so with our modern conspirators, ingratitude is conspicuous among their crimes.

While history furnishes no parallel to the rebellion of Jeff. Davis and his coadjutors, we are not without a picture of their perfidy, for which we are indebted to the genius of that great English republican and poet, Milton. He has shown us how Satan and his followers—a motley crew—rebelled against the authority of Heaven, and for precisely the reason that they were not permitted to control there. They preferred to rule in hell rather than serve in heaven. And so with



our late ex-President, our ex-Vice President, ex-heads of Departments, Senators, members of Congress, ministers to foreign courts, ambassadors, consuls, and dignitaries in large number, who hover about the slave-pens of Richmond, and make their headquarters there. Forgetting entirely the source whence was derived all the authority they ever had, they discard the verdict of their masters, the people, and set up for themselves an empire founded upon slavery; even upon slavery possessed of all the most repulsive and forbidding features of that heathenish practice; a slavery that ever drips with human blood, and fills the whole air with the groans of its victims.

Such is the acknowledged corner-stone of that empire; and are there any that would forbear to relieve these victims from such masters? Ours is the home of the oppressed of all lands, and shall it afford no relief to the oppressed of our own? A shame that we have so long belied our professions! A shame and a disgrace that the great American Republic should suffer its free Constitution to be made the bulwark of tyranny! We have tolerated this fallacy of one man owning another too long. It is utterly indefensible on any ground, and will bring trouble upon any people that adopt it. There is a principle of compensation running through all nature that will not permit the violation of a law with impunity. The reverse tide may be slow, but it is sure to come. I doubt not the next generation of people in Kentucky will wonder that their distinguished Representative on this floor, [Mr. CLAY,] in the third year of this slaveholders' rebellion, should talk so confidently about property in man. Why, it is self-evident that liberty is an inalienable right, no matter what custom may happen to prevail in the Barbary States, or in the Border States, or in any other States.

Gentlemen are constantly reverting to some old condition of things and claiming that we should shape our conduct by what some others have said or done here or elsewhere under other circumstances. As for me, sir, I have no more regard for precedents in these times than had our colonial ancestors when they declared the great truth that "all men are created equal." They had the courage thus to strike down the ancient theoretical distinctions of blood. All the notions of all the nations in all the centuries touching royalty and nobility were swept from the New World on the 4th of July, 1776, and the Old World is learning the lesson slowly. Precedent is only respectable when it accords with right reason. No matter how many examples may be cited to sustain slavery, men are now looking at it in the light of reason. Its pangs are not at all alleviated because of the multitudes that have suffered them.

"Slavery, thou art a bitter draught.  
And though thousands in all ages  
Have been made to drink of thee,  
Thou art no less bitter on that account."

In the United States of America slavery has forfeited every sem-

blance of right to recognition ; and I regret that our worthy President has seen fit since this war began to give it any countenance in his public acts. The proclamation would have been still more palatable had it contained only the words, "Slavery has undertaken to destroy the Republic, therefore slavery shall be destroyed. Done : Abraham Lincoln."

Mr. Speaker, if you would put an end to this cruel war be sure in good faith to take good care of these oppressed people. Arm the men. Put sharp weapons in every brawny hand among them ; and then soon will the ex-Secretary of War cry out to his followers, in the language of his great prototype :

"Long is the way  
And hard, that out of hell leads up to light."





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ANNEXATION OF DOMINICA.

SPEECH

OF

HON. CORNELIUS COLE,  
OF CALIFORNIA,

IN THE SENATE OF THE UNITED STATES, APRIL 19, 1871.

Mr. COLE. Some time ago I submitted a resolution to print a certain number, fifty thousand copies, I think, of the message and documents accompanying the President's message upon the subject of San Domingo. That has not been reported upon. I move that the Committee on Printing be discharged from the further consideration of that resolution, in order to bring it before the Senate.

Mr. MORRILL, of Vermont. I understood the Senator desired to submit some remarks to the Senate. If he desires to bring up the matter for consideration and discussion I must object to it.

Mr. COLE. I make this motion for the purpose of bringing the resolution before the Senate, in order that I may then submit some remarks upon it; that is all. After that, the Senator can move to recommit it again, if he wishes to do so.

Mr. DAVIS, of Kentucky. I object to the motion of the Senator from California.

The PRESIDENT *pro tempore*. The motion of the Senator from California is in order. A single objection does not carry the motion over. It requires a majority vote of the Senate to do so. The Senator from California moves that the Committee on Printing be discharged from the further consideration of the resolution submitted by him.

Mr. DAVIS, of Kentucky. On that motion I ask for a division.

The PRESIDENT *pro tempore*. Senators in favor of the motion will rise.

Mr. DAVIS, of Kentucky. I am informed that the Senator from California makes his motion merely with a view to submit some remarks, and not with a view to any action of the Senate on the subject at this time. I therefore withdraw my objection.

The PRESIDENT *pro tempore*. Then the question is on the motion of the Senator from California.

Mr. SHERMAN. We had better take up the resolution.

Mr. COLE. I suppose there will be no objection to taking it up.

The motion was agreed to.

The PRESIDENT *pro tempore*. The committee is discharged from its further consideration, and the resolution is before the Senate.

The Senate proceeded to consider the following resolution:

*Resolved*, That fifty thousand copies of the message of the President and the report of the commissioners, relating to San Domingo, be printed for the use of the Senate.

Mr. COLE. Mr. President, it is so. "Truth crushed to earth will rise again." The extreme delay, however, that sometimes attends the development of truth and the consequent illustration of this principle leads one to doubt whether the saying may not be, after all, merely the offspring of fancy, or a poetical flourish, rather than a solid reality. The faith of those who are friendly to the annexation of Santo Domingo has been put to the severest possible test. Their confidence in ever being able to relieve the measure from that great mass of error and misrepresentation which has been heaped upon it had almost failed, and their hopes had well-nigh perished, when the report of the commissioners sent to visit the island, and the accounts of those gentlemen, in the various walks of life, who had accompanied the commission, and, above all, the admirable message of the President, came to their relief.

The project had been freely characterized as "a swindle," "a scheme," "a job," and in

fact by every other opprobrious epithet that calumny could invent or slander devise. There had apparently been system about this opposition. It was evidently the result of deliberation, and certainly seemed intended to wound reputation. Whether the object was simply to gain some paltry political advantage, or to attain some end higher or lower than this, it is not for me to say. I would speak more unreservedly upon this matter if I had not been to some extent myself the subject of these vituperations and misrepresentations. But the tongue of slander will never cease to wag while the spirit of calumny holds a place in the human breast.

I make no reference, whatever, in these remarks, to those persons who in a marly, candid manner have opposed the annexation of Dominica upon the merits, but to that other class, that race of political harpies outside of Congress, certainly outside of this body, who have sought to besmear with filth the feast to which they were invited, but were unfitted by nature to enjoy.

In view of the extraordinary treatment to which this question for the last year or two has been subjected, the words of the President in his message are like apples of gold in pictures of silver. They will put to confusion so many of his calumniators as are yet blessed with a remnant of that sensibility which is supposed to be the inheritance of our race. They are to the point; conclusive and unanswerable.

All that has been said against the manner in which the proposition was brought forward, and all that has been repeated against those who have been in any way instrumental in bringing it forward, in short, all in the nature of calumny and detraction that has been uttered in connection with it, is, I trust, dispelled by the unanimous testimony of the large number of most worthy and competent gentlemen who have but recently returned from the island. The character of their evidence is strengthened by the fact that their visit was made for the express purpose of inquiry, and any plan, therefore, to mislead them must inevitably have failed. I have no hope that the entire press of the country will unite in making the *amende honorable*, for among the newspapers, as in politics and in war, there are Bohemians whose sense of justice cuts no figure in the presence of their selfishness or their malevolence. An attempt to convert such from the error or wickedness of their ways, either by the use of arguments or facts, would be as vain as it would be ungrateful. But the antidote has at last been applied to their poison, the sting of their calumny has been extracted, and we can hereafter discuss the pure question of the annexation of Santo Domingo on its merits, free from the embarrassment of suspicion that all sorts of wrong was involved in it.

Like all preceding questions of the same

nature that have arisen during our brief but eventful history it ought to be considered with single reference to its influence, whether for good or evil, upon the nation at large. This is about the only point of view from which it can properly be considered by any patriot or statesman.

The West Indies was the name by which the entire New World was known for many years following its discovery by Christopher Columbus. This designation was afterward reduced in its application to those islands which stretch like stepping stones quite across from North to South America, east of the Gulf of Mexico and the Caribbean sea. The number of those islands is immense, and their total area but little short of a hundred thousand square miles. They are all above the tenth degree of north latitude, and some of them as far north as the twenty-seventh degree, or north of portions of Florida and Texas. They occupy a still wider space in longitude, extending, as they do, from the sixty second to the eighty-fifth degree west from Greenwich.

These islands are as closely identified with America proper, and are really as much a part of the New World, as any portion of the continent. Their products are essentially the same as those of the tropical portions of South and North America and their inhabitants not altogether dissimilar. The rules of government and political doctrines that would befit people on the mainland would apply, with almost equal force, to the inhabitants of those islands, except that the islands have a little advantage, as a general thing, in salubrity of climate, in soil, and in diversity of scenery. If it be true that the character of political institutions is absolutely controlled by the circumstances of climate, productions, &c., the same sort of government that would serve on the continent would not be greatly out of place in these neighboring islands. But further upon this after awhile, if time serves; more important considerations demand attention first, and I pass to them.

From the day of their discovery the West Indies have been a remarkably conspicuous portion of the earth's surface. For nearly a century they remained the chief object of attraction to all persons visiting the New World. Expeditions of different kinds were fitted out from here to other parts, and no voyager thought of passing them by. From the city of Santo Domingo, which was for ages the foremost city of the western continent, sailed the expeditions of De Soto, Cortez, and Pizarro, and out of the abundance of these islands nearly all the preparations for these expeditions were made.

The West Indies have contributed largely, and without cessation, to the necessities, comforts, and luxuries of the civilized world. Their products have supplied the tables and adorned



the dwellings of the rich and the poor alike in all countries. They have been sought after indiscriminately by monarch and peasant.

A stream of wealth, about as unfailing as the Gulf stream, has continued for centuries to flow out from these islands, and, striking the nearest shore of the eastern world, has spread over all lands. Each of the three great Powers of western Europe has striven earnestly for itself to gather in this current, and each has in a measure succeeded. Neither Spain, France, nor England has for one moment been unmindful of the advantages arising from its possession, and each of these Powers has managed with scrupulous zeal to maintain a portion of it. This rivalry has been manifest from time to time through negotiations and diplomacy, and not unfrequently by warlike demonstrations. Neither nation has ever been without its powerful naval armament in the waters of the West Indies, and each has always maintained a respectable position there.

The possessions of Spain and England in this archipelago are still very large, and those of France not inconsiderable; but France lost the better portion of her possessions by the establishment of independence in Hayti, which occurred about the year 1805. But France has never ceased to cherish with great solicitude her little treasures, so to speak, of Guadeloupe and Martinique.

The possessions of Spain in the West Indies are Cuba, Porto Rico, the Isle of Pines, and many other smaller islands contiguous to these. The islands of Great Britain in the West Indies are almost innumerable, and are interspersed throughout the whole archipelago. Beginning with Jamaica, we might run through a long list, as Trinidad, Barbadoes, Grenada, Tobago, St. Vincent, St. Lucia, Antigua, Nevis, Turk's Island, Virgin Island, the Bahama islands, and by no means omitting New Providence, which, though one of the least, we have perhaps the greatest reason to remember as the one in which is situated the little town of Nassau, from which issued forth blockade-runners by the score during our recent rebellion. These blockade-runners did us more injury a hundred-fold than the best island in the group would have cost us.

Conspicuous among the islands that belong to Holland are St. Martin's and Curaçoa. Sweden has her St. Bartholomew, and Denmark can boast her Santa Cruz, her St. John's and St. Thomas. The latter and least in size of the three, and probably least in value also, she offered to transfer to us a few years ago for the snug little sum of \$7,000,000 in gold. This was at the rate of about one thousand dollars per acre, including sand-banks, and there is little else than sand-banks of St. Thomas. The impression was abroad that we should at least get a secure harbor in the bargain, but even that delusion was dispelled by

the occurrence of a hurricane soon after the negotiations, which destroyed the shipping in the harbor, including, I believe, a part of our own West India squadron, which happened to be lying at anchor there at the time. The amazing thing about this matter is, and it is amazing, that the proposition to purchase St. Thomas was favorably considered, while there is untiring opposition to taking Santo Domingo almost as a free gift. To have rejected St. Thomas as a gift and to have accepted a proposition to purchase the Dominican republic at seven times seven million dollars would have been, in my judgment, much more reasonable.

Geographically considered Santo Domingo is exactly the central one of all the West India islands. A line drawn through the group in almost any direction will intersect it. It is beyond all question the focal point, and occupies the commanding position in reference to the whole of them. It is so in reference to the most cherished possessions of Spain, England, France, Denmark, Holland, and Sweden, and it is the only one of them all that is not to-day under some European flag. The rest, without exception, are but the outlying dependencies of a bevy of crowned heads, and these islands serve as convenient greenhouses, conservatories, and gardens for the monarchies of the Old World. I spoke of them as dependencies. This is, perhaps, an inaccuracy. The dependency is on the other hand. Europe relies upon them, rather than they upon Europe. In the sense only that the slave is dependent upon his master, are they dependent upon their owners. They are supplied with a government from across the ocean, but in return they supply their owners with the luxuries and the comforts of civilized life without stint and almost without price. Am I asked, are they content under these circumstances? Are they pleased with this condition of things? By no means. But, with the example before them of almost immeasurable cost in men and money, and unparalleled sacrifices incurred by the people of Hayti and Dominica in throwing off a foreign yoke, few of the islands have had the temerity to undertake it.

In Cuba revolutionary movements have been frequent, but never successful; and it is not to be wondered at that others of these colonies, less able to contend against the strong Powers of Europe, have lacked the courage to begin the work. Their ability to do so has been persistently forestalled by keeping them disarmed, and depriving them of all the means of vindicating their natural rights. Their European task-masters have perpetually appropriated the native vigor of the West Indies to the augmentation of their own strength, and these rich colonies have systematically been kept in abject poverty. Santo Domingo alone of all those islands has had the courage to throw off the domination of Europe, and to



assume among the nations of the earth a separate and independent existence.

It is observed that nearly every commercial nation has a foot hold in the West Indies except the United States of America alone. Of all the thousands of islands of every size and description stretching off from our own shores two thousand miles toward the equator we own not one, great or small. If it were only a matter of pride, the grand Republic should not be without its possession there. But it is more than a question of pride. It is a question of the highest interest; it is no less than a question of national safety, and, more than all, a question of humanity. Liberty and the development of free institutions are involved in the proposition. The final overthrow of that crowning curse of our race, human slavery, is intimately associated with it; and that humanitarian who opposes it will require a large share of ingenuity to harmonize altogether his course with a reputation for love of the human race.

Not only is Santo Domingo centrally located in reference to the West India group, but it lies directly between the islands of Cuba and Porto Rico, the only ones upon which still lingers that first-born and most vigorous of the twin-sisters of barbarism, African servitude. Situated no more than forty miles from either of these Spanish neighbors, it would only be necessary to plant that real emblem of freedom, as it has become at last, the stars and stripes, upon a portion of Santo Domingo to drive human bondage forever into the circumjacent sea. I should expect it to flee as precipitately as did the herd of swine we read of in Scripture when taken possession of by iniquity in another form.

It is not left altogether to conjecture that old Spain regards the union of Dominica with us as fatal to her institutions in the West Indies. Since ours has become a free Republic it is no longer possible to preserve a sound and genuine friendship and good neighborhood with her. As well expect to blend fire and water and to preserve both as to maintain harmony in the proximity of such discordant elements as liberty and slavery.

Not only does Spain see in our acquisition of that country the destruction of slavery in Cuba and Porto Rico, but also, and almost as speedily, the loss of those islands themselves; and if she has not resorted to every species of strategy to prevent such a consummation she has not evinced her usual cunning. I doubt not she has done far more in that direction than many of those who have lent her assistance are at all conscious of. Once all South and a large share of North America was hers. Province after province has wrested itself from her grasp, till not one foot of land remains to her on the continent. These islands alone, of all her proud possessions, continue to pay

her tribute, and these likewise would fall from her withering embrace if severed by our occupation of Santo Domingo.

The acquisition by the United States of a station in the West Indies is not a new proposition by any means, nor is this project for the annexation of Dominica one of very recent origin, nor yet did it originate with the present Administration. The thing was seriously considered during the presidency of Mr. Tyler, also during the presidency of Mr. Polk, during the Presidency of Mr. Pierce, and under the administrations of Mr. Buchanan and Mr. Johnson. And there is hardly a doubt that it would have been acquired under some one or another of our Democratic Administrations but for the circumstance that negro slavery, which had been abolished in Santo Domingo, then existed in the United States. It was feared that the anti-slavery infection, which had but recently swept over the island, would spread in this country, and consequently all propositions looking to the union of the two republics were finally ignored.

But, nevertheless, various steps were taken by our Government, from time to time, with a view to its consummation, or at least to the acquisition of a sea-port in the West Indies, which was always regarded as very desirable, and the only obstacle to which seemed to be the peril it would work to negro slavery within our own borders. I do not intend to include in this remark the failure of Mr. Seward's attempt some four years ago, but will, after a little, speak of that by itself.

On the 22d of February, 1845, Mr. John Hogan was sent by the State Department as a special agent to Santo Domingo. The instructions given him were as follows:

"The points to which you will more particularly direct your inquiries are:

"*First.* The extent and limits of the territory over which the Dominican Government claims and exercises jurisdiction.

"*Second.* The character and composition of its population, the degree of intelligence among the better portions of the people, and whether there is a general spirit of unanimity among all classes and a determination to maintain their independence.

"*Third.* The number, discipline, and equipment of the troops, and what irregular or militia force may be brought into the field in an emergency.

"*Fourth.* The aggregate population of the country and the proportions of European, African, and mixed races; their mutual dispositions toward the existing authorities, and the names and characters of the principal persons in the executive, judicial, and legislative departments of the Government.

"*Fifth.* The financial system and resources of the republic, together with its foreign, coastwise, and internal trade, and its connections, if any, with foreign Powers. In a word, your attention will be directed to all the points touched on in Mr. Caminero's memoir, and to such other subjects as may be connected with the main object of your mission.

"You will be expected to communicate from time to time the progress of your inquiries, and to return as speedily as possible to the United States, when you will make your final report to this Department. In no event will you remain more than six months from the date of your departure from the United States, unless specially directed by the Department.

In the mean time your compensation will be at the rate of eight dollars a day, exclusive of your necessary traveling expenses, of which you will keep a regular account, sustained by proper vouchers, in order that it may be submitted to the proper accounting officer of the Treasury."

This, it will be observed, was more than a quarter of a century ago, and the year following the achievement of independence by the Dominican republic.

Dr. Caminero was the envoy of the new republic to this country, and had addressed several communications to our Government urging the recognition of the independence of his own. Mr. Calhoun, then Secretary of State, finally commissioned Mr. Hogan to go to the island and ascertain if the statements of the envoy were really borne out by the facts. The report of Mr. Hogan was made in October of the same year, and fully sustained in every particular the glowing accounts that had been given of the country by its own accredited minister. The negotiations and the mission of Mr. Hogan did not appear upon their surface to contemplate annexation to our country, but that such was an ultimate object will hardly be doubted by one who looks carefully into all that occurred. "It is beyond all doubt," says Mr. Hogan, "that England and France are seeking to acquire to some extent, and in some way, an influence over the new Government and its concerns, and to accomplish these designs for their own special benefit, to the exclusion, as far as possible, of any participation by us." Mr. Hogan adds:

"As might have been anticipated, the watchful eyes of England and France have not been closed to the interesting events which have occurred in this region. Their official and unofficial agents have been upon the spot, anxiously watching the course of events, and industrious in turning them to the advantage of their respective nations. Jealous of each other, but united in their jealousy of the United States, no means were left untried to annihilate in advance every hope on the part of this country to participate in the advantages to be derived from the present circumstances in which the republic of Dominica finds herself.

"It is not easy to determine whether either of the nations which have been named has formed any definite system of operations or plan of policy in reference to this state of things, or, if they have adopted steps, to ascertain with certainty what their plans are."

To forestall and cut off these aims of those European Powers I have no doubt was the principal object had in view, and that could only be effectually accomplished by creating more intimate relations between Dominica and our own Republic. No definite plan for this or other ulterior purpose beyond a mere recognition of independence was alluded to in the correspondence, though doubtless such purpose was entertained by both parties. Mr. Calhoun's constitutional horror of free negroes gave a bent to his mind adverse to the annexation of that country, or any other with a similar free population, but in this sentiment, in all probability, Mr. Hogan, who was from New

York, and other members of the Administration, did not participate. I think they were seriously considering annexation at that early day and already taking important steps to that end.

In the autumn of 1854 Captain (since General) George B. McClellan made a report to Jefferson Davis, then Secretary of War, of his visit to the island of Santo Domingo. His reconnaissance, though limited, was, so far as it extended, remarkably complete and perspicuous. His observations were mainly confined to the bay and the peninsula of Samana. The object of his mission sufficiently appears in the character of the report submitted by him to the Government on his return. It had in view the acquisition of a naval station in the West Indies—a thing which, though considered desirable, as I have said, by almost every Administration, was first taken hold of in earnest by Mr. Seward in the St. Thomas affair. Prior to that time a good deal of fine skirmishing had been going on, but it was reserved for Mr. Johnson's administration to enter upon the real work and for General Grant to accomplish, so far at least as negotiations could accomplish it, not only the possession of Samana, but of the entire republic of Dominica. With commendable deliberation and praiseworthy zeal he has performed his part of the task, and left it for the representatives of the people to complete the work.

This was done by the President mainly through the agency of General Babcock, who, like McClellan and others before him, paid a visit to the island for the purpose of obtaining exact and comprehensive information touching the country, the people, and the Government of Dominica. General Babcock confirmed the voluminous reports of the emissaries who had preceded him; but the advantage and peculiar value of his statement consisted in its affording full information as to the present condition of that portion of the island seeking annexation with us.

The expedition of the Tennessee adds a score or two more to the witnesses who speak from actual observation of the richness, beauty, and fertility of the Queen of the Antilles, and also of the fitness of the inhabitants for association with us politically. But the most remarkable fact demonstrated by all these personal observations, and the one that will shine forth in history, no matter what the result of the enterprise may be, is the entire, the unparalleled unanimity of the people of that republic on the subject of becoming incorporated with the great Republic of the North.

About the time of the negotiations for St. Thomas—but I think a little later, possibly a little earlier—at all events in January, 1866, the Assistant Secretary of State of the United States, Mr. Frederick W. Seward, paid a visit to Santo Domingo on Government business.



His trip was made in a Government vessel and his mission was to obtain a concession or lease of the bay of Samana, and to agree, if possible, upon the terms of annexation of Dominica to the United States.

The Secretary of State himself, Mr. William H. Seward, likewise made a trip to the island, with a similar view. And afterward Mr. Frederick Seward made a second voyage to Santo Domingo, with Admiral Porter, for the purpose, it is believed, of offering \$2,000,000 for the bay and peninsula of Samana. But the result of these labors was brought to naught, either by revolutions in the island or by the impeachment proceedings soon afterward instituted against the head of that administration. But for these circumstances, in my opinion, the annexation of Dominica would have been accomplished with even less opposition than was exhibited toward Alaska. Certain it is we should have had Samana, for it is a fact that in 1866 \$200,000 were actually appropriated as a first installment to carry out any agreement that might be entered into by the Swards.

I had almost forgotten to mention one other mission or visit to Santo Domingo on behalf of our Government. I refer to the first one of Admiral Porter, who, when a young naval officer, went there for the purpose of obtaining full information regarding the country and people. That officer in pursuance of his orders traveled all over the island. This occurred in the year 1846, and the report of this officer to the Navy Department, though it has never been published, is among the most able and interesting I have seen. It is particularly valuable in giving a detailed account of the habits and character of the people of the interior of the country. I regret I am unable, not having the report before me, to give some extracts from it. Porter's observations were made the year following those of Mr. Hogan, and go to show the solicitude of our Government touching that country during this very early period of its independent existence. The object of these visits may find some elucidation in the fact that we had just acquired Texas, and Dominica was not overlooked by the same party and administration. Having vastly extended our possessions on the Gulf of Mexico, the necessity for a hold upon the West Indies was thought to be greatly increased.

I proposed only to allude to matters which had not been dwelt upon by the commissioners in their report. Their work has been so well and so faithfully performed that it would be vain to attempt to improve upon it. I intended to confine myself to a few general observations upon the subject, and in that way concentrate, if possible, some of the notions that have been set loosely afloat regarding it. My purpose will be fully accomplished if I but succeed in correcting a few of the more pop-

ular errors concerning the people and Government of that unfortunate and much misrepresented country. The motives of the Dominicans are entirely defensible. In order that they may secure peace for themselves, and enjoy a degree of prosperity which has long been denied them by the enemies of their independence, mostly, I doubt not, domiciled in other countries, monarchists in fact, they are willing to unite their fortunes indissolubly with ours.

While they are jealous of their rights, as freemen always are and as they ought to be, the Dominicans are as peaceful and obedient to law as any people under the sun. Such is the testimony of all. Though few in numbers, they occupy a country full twice as large as Massachusetts, and almost unsurpassed in richness of soil and productions. In natural resources, in all products except men, in all advantages except wealth, the old Bay State will bear no comparison with it; and yet Dominica is not altogether wanting in excellent and cultivated men, nor in the true sources of wealth. But is not the marvelous prosperity, the great richness of Massachusetts, and even the excellency and wisdom of her men attributable, in some degree, to the very prosperous trade she for many years carried on with the West India islands? Does Massachusetts, therefore, owe nothing to Santo Domingo? She may deny the obligations of humanity that are binding upon her toward the people of that and every other part of the world, but will she deny the debt of gratitude also? The kings and princes of wealth and intelligence in New England have long fed upon the West Indies and drawn much of their sustenance from Santo Domingo itself.

We are a commercial nation, and as such ought to have a foot-hold in the West Indies. We are much in need of a naval station there. Such a station would have been invaluable to us during the war from which we have but recently emerged. Any station, any harbor, however insignificant, would be better than none; but we are offered the very best, literally without price, and yet we hesitate. Our chief annoyance during the late war arose from this want of a harbor in that quarter. No one can calculate with anything like exactness, nor estimate closely the amount of damage we suffered by the operations of the enemy carried on from Nassau, but it is safe to say that the war was greatly prolonged by them. It was from blockade-runners and privateers fitted out from that little British West India port that the rebels obtained their supplies of arms and munitions of war during the early stages of the conflict. Had we owned Samana at the time, all this annoyance would have been spared us. Mr. Seward, seeing this, set about correcting the evil directly after the war was over; and General Grant, equally con-



scious of the fact, has sought to do what Mr. Seward failed to accomplish.

For want of time I omit almost entirely a discussion of commercial questions in connection with annexation. The advantages of our possessing just such a country, and a country of just such products as abound in Dominica, are too obvious to need illustration or argument. We never have done without them, we never will do without them, and we never can do without them. We can afford to leave the land that produces them under other domination, but the products we must have. We can continue to pay hundreds of millions of dollars to Spain, Great Britain, and other Governments as profits upon such articles, as we have done in the past, or we can exchange our own products for them without the exaction of duties. The two courses are open before us. Which shall we choose? Which is the course of wisdom?

The proposition to unite in a peaceful way under one Government two independent nations is by no means a common occurrence. The forcible absorption of one sovereignty by another is no unusual thing in the world's history; but the proposition of one Power voluntarily to lay down its separate existence and to become eliminated from the family of nations is rare indeed. That event cannot be effected so well by treaty as by the act of the absorbing party, or by both parties acting independently, the one for the purpose of manifesting its willingness to surrender, and the other for the purpose of taking possession. The case supposed is widely different from that of one nation ceding away a portion of its dominion. There the only way to reach the matter is by treaty, which subsists and is binding after the event is consummated; as in the case of the convention with Russia for the acquisition of Alaska, or with Mexico for the acquisition of California, or with France for Louisiana, or Spain for Florida; but we did not treat successfully with the republic of Texas for Texas, nor can we properly enter into a convention with the republic of Dominica for Dominica.

A treaty made in either of the latter cases would not be a subsisting treaty a moment after its ratification. The ratification which makes the nations one ends its operation instantly, and it is no longer a treaty to be invoked by either party. But a law enacted by the absorbing party remains in force, as in the case of Texas. The joint resolution passed March 1, 1845, "for annexing Texas to the United States," is just as much a law now as when it was first enacted, and is as binding as ever, Texas having accepted its conditions. The only example of our taking an independent nation under our flag is this case of Texas, and that was accomplished by resolution of Congress. Prior to that time we had entered into treaties with that republic. We made two treaties with Texas as early as the year 1838, but when the question of annexion arose there was no final resort to a treaty or the treaty-making power, but a joint resolution of Congress extending our jurisdiction over her, and prescribing the terms of the union, was all that was deemed necessary. So we have made treaties with Dominica, but when the question of annexation arises the first thing to ascertain is the disposition of the Government and people of that country, and if that is favorable the union is properly effected by joint resolution, as in the case of Texas. Whether this will ever be accomplished or not is in the womb of the future. I content myself now with presenting a few of the many considerations why it should be done.

Mr. President, in pursuance of my promise, I move that the resolution be recommitted to the Committee on Printing.

Mr. SHERMAN. I move that it lie on the table.

The PRESIDING OFFICER, (Mr. Howe in the chair.) Is the Senate ready for the question?

Mr. SUMNER. What is the question?

The PRESIDING OFFICER. The question is on laying the resolution for printing on the table.

The motion was agreed to.



15.  
On the Amendment to Admit Alabama.

SPEECH

OF

HON. JOHN CONNESS,  
OF CALIFORNIA,

IN THE SENATE OF THE UNITED STATES, JUNE 6, 1868,

IN REPLY TO MR. DOOLITTLE.

The Senate having under consideration the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress—

MR. CONNESS said:

MR. PRESIDENT: There were some things in connection with the pending amendment which I thought during the discussion yesterday I should like to have said, and, perhaps, would like to say now, though I am so much the more anxious for the passage of the bill proposing to admit those States that I would readily forego at any time anything that I might have to say if we could come to a vote upon it. Yet, if the debate is to go on to the consummation of this day or still further, I will trespass upon the Senate for a few minutes.

I regret, Mr. President, very deeply, to witness the opposition that proceeds particularly from this side of the Chamber to the amendment offered by the honorable Senator from Massachusetts, because I cannot see for the life of me a good reason for objecting to the admission of Alabama at this time. Of course we all differ or are apt to differ, indeed too apt to differ, I think, in this Chamber, and particularly on our side of it, I will say, upon propositions of policy and doctrine. I regret that Senators here representing the great national, patriotic party of the Union, which maintained the war and fought it, who stand now before the country and the world under all the responsibility that can attach to a party engaged in conducting a Government, so often differ upon questions of doctrine and policy. The opposition to this amendment in the Chamber comes from two classes. One class is ably, actively, astutely represented by some of the Senators I see sitting before me. I allude particularly to the honorable Senator from Pennsylvania [MR. BUCKALEW] and the Senator from Indiana, [MR. HENDRICKS.]. Upon all occasions when it becomes the interest of the party they rep-

resent to advocate their policy, (which, however, they do not give much of their time to, but attack ours,) they are ever in the foreground; and their associates on the other side of the Chamber permit their leadership, as I think, with great good judgment, for they are cool, cautious, and able. These leaders, with all the other members of their party on the opposite side of the Chamber, are against this amendment.

They are against the bill; they are against it in whole and in every part. They opposed the first reconstruction bill; they opposed the second; they opposed the third; and they will oppose every proposition which proposes to readmit the southern States upon the basis of equal suffrage; and yet honorable Senators on this side of the Chamber allow them often to dictate a policy to divide and distribute our forces, while they never vote apart. It is of no consequence, Mr. President, whether it be a legislative or a judicial question that the honorable Senators vote upon, a trial to determine political policy contained in a bill before this body, or a trial of the President of the United States, they vote conscientiously of course, but, wonderfully, vote together. The solid phalanx is never broken. I like them, sir; I like wisdom, boldness, perceptive sense, and they exhibit all here; but sometimes I have been astonished that some of our friends did not perceive it and did not know that they were the serpent in the garden—they will pardon me for the comparison—who mean to please while they mean to destroy, while we conscientious folks and legal men are able to split a hair without breaking either side; and sometimes I have been tempted to think that the ability to do it, existing hereso extensively and so certainly, often induces the practice of the attempt just to see how it can be done and who can do it.

So, sir, Alabama cannot be admitted with the other southern States in the same bill, but



we are told it must be presented as a separate proposition in a separate bill. Mr. President, I ask you the question, what Senator is there on this side of the Chamber who will refuse to vote for the amendment of the Senator from Massachusetts admitting Alabama at the same time with the other States, who will consent to vote for it if it stands alone? Suppose, as we have been told—and this prophecy has been made a great many times—that the President shall veto the bill now before us and send it back here; suppose that the amendment now pending be lost and that a separate bill for the admission of Alabama shall also be passed by a majority or more and sent to him for his signature, will he not return them both with a veto? Will he treat one any better than the other? And when the bill for the admission of Alabama standing alone shall be returned by him to this body, what Senator who would not waive all question and vote for it incorporated with a bill admitting the other States, will then vote for it over his veto?

Mr. President, can it be possible; is it true at this period and time that there is any Senator on what I claim to be the loyal side of the Senate—and loyalty has a meaning though it is so much used—who will refuse to sustain a bill for the admission of Alabama under the constitution made in that State, because it is either in or out of a bill proposing to admit the other States? If it be so, then it only proves that as a party, a majority party charged with conducting this Government at this great crisis, it is a failure; and, sir, that being the case, it deserves to be routed, horse, foot, and dragoons, by that party for which I have no political respect, led by those astute leaders on the other side of the Chamber.

When my friend from New Jersey [Mr. FRELINGHUYSEN] was on the floor he told us that there were Senators here who would not and could not vote for this bill if it came back with a veto from the President, the amendment of the Senator from Massachusetts having been adopted; and my honorable friend from Michigan, [Mr. HOWARD,] who is always brave and true, reiterated the opinion, and although he was ready to vote for it, it was his opinion that that was the real state of the case in the Senate; and many others followed. When the debate had taken this turn my friend from Pennsylvania [Mr. BUCKALEW] rose and offered his arguments, and the Senator from Indiana [Mr. HENDRICKS] joined him as usual. They said that this was in the nature of a contract. Why, said the Senator from Indiana, several times, if not in this debate heretofore, what did you mean by submitting the question to the people of Alabama if you were not prepared to abide by their decision? It was not for the purpose of abiding by their decision that we submitted it;

it was for the purpose of developing a constitution; it was for the purpose of organizing government; it was for the purpose of organizing loyalty and allowing that State to be represented in this Chamber and to resume all her practical relations with the Government. Well, sir, in the process of submitting the question, it happened that under our law, unwisely passed, I think—I do not know how I voted upon it, and I do not care; I think, however, I voted against it—the requisite number of votes was not polled for the constitution to result in its adoption. Does that bind this Congress? Did we not make the law? May we not amend it?

Have we not asserted from the beginning our entire and complete power over this subject? Might we not have admitted Alabama without the process that she took at all? Might we not have admitted Alabama, if we chose and deemed it worthy of us, under the so-called Johnson constitution? Certainly. The power was here; it abides here still; and we may either amend or change the law, or act, notwithstanding the law, as we shall see fit. Why? Because we represent the sovereign power of this Government and people that maintained the standard of the nation and the integrity of its Government against rebellion, and because we mean to hold fast to that position until the entire work is done and well done. Sir, among our friends that come to our house to meet us, do we raise the question of who shall first enter? Who that has a heart and a judgment does not welcome all; and why should we not welcome all?

I will give no time to the question of the causes that led to the failure of the vote in Alabama. It is enough that it technically failed; but it is true, as stated by my honorable friend from Indiana near me, [Mr. MORTON,] that there were eighty odd thousand votes cast for the constitution; it is true that they have made such a constitution as we would choose that they should make; it is true that they ask to be admitted, and that their safety demands that they be admitted. If the Senate will indulge me at this point, I will read some dispatches just received from Alabama. The first one is addressed to the honorable Senator from Massachusetts, who has offered the amendment, and is in these words:

MONTGOMERY, ALABAMA, June 6, 1868.

The loyalists of Alabama, with one voice, beg Senators to support our amendment.

Hon. HENRY WILSON, *United States Senate.*

This is signed by more than half a dozen of the leading men of that State. I will read another dispatch received to-day:

MONTGOMERY, ALABAMA, June 6, 1868.

Republicans are intensely anxious for the adoption of WILSON'S amendment.

Hon. R. M. REYNOLDS.

The honorable Senator from Pennsylvania, in this discussion, was almost facetious in his attacks upon the reconstruction laws. It is but what he has iterated and reiterated here many times before, though he rarely repeats himself; but the line of discussion has drawn him into it. He said that the better way to have done would have been to send an exact pattern of a constitution down to these States, a kind of a last upon which a political boot should be made, and then we should have the thing according to pattern. I do not know whether his support of the pattern of that kind sent by Andrew Johnson down into these States when he made his celebrated proclamations, put this in his head or not. I do not know but that that pattern, which particularly and prominently allowed every rebel to vote, so pleased him that he got the idea of pattern in his head from that, and then said what he did while up.

The only conditions that we imposed upon the people of the South were conditions which became necessary by their crimes and falsity to good faith and loyalty. Why, sir, it was preposterous that a local government could be organized in any of those States after the war by allowing the men who had laid down their arms to take up the ballot and vote, and they alone, under which this Government could live, and it was as impossible as that devils could reign in Heaven, and as unnatural. Therefore it became necessary to put the ballot in other hands; and the fault, the great and grievous fault of reconstruction, has been that the power of the Government from the time the war ceased was not kept closely applied to the rebels so that they should not be let up until they were taught obedience to law and to order, respect for property and life and the rights of other men. But, sir, unfortunately, in a day of the cruellest misfortune, our President, elected by the party that we represent here, determined to make a wide difference with us. He determined to engage in the business of reconstruction single-handed—no, sir, not single-handed, but without the aid of our hands, without the aid of the men who had given him his power, but with the aid of the rebels of the South, the Democrats of the North who had opposed the war, and the plunder-seeking Republicans, wherever they could be found, to build up a party that should elect him or some one like him for the next four years President of the United States. That was what he undertook to do, and that was why the Senator from Wisconsin [Mr. DOOLITTLE] deserted his party—I was going to say basely betrayed it—and joined the President to do. Ah, Mr. President, does any one think, can the Senator make the simplest creature in the land believe, that if the President had been true to his faith, true to his trust to the people, true to his obli-

gations to the party that elected him, and gone on with us, the Senator would have left him then? Nay, sir, he would have clutched to his coat-tails, he would have still followed the flesh-pots of presidential patronage, and he would have been here the loudest of the loud proclaiming for Johnson and reorganized, reconstructed liberty in the South; and we should have had some of that physical eloquence that he so often gives us specimens of here when, with a pile-driving power, he drives down his propositions beneath him, often smashing them into pieces, and when, sir, he almost impiously—he will excuse my language, but the facts justify it—intersperses his appeals to the Senate with appeals to Almighty God.

Mr. President, the honorable Senator professes to be a Christian man, and has often told us how much he reveres the Christian religion; but, sir, he has joined idols; he has abandoned his faith; he has abandoned the principles upon which Christianity is founded and for which it was established in the world. If Christianity, by its great Master and Teacher, was not brought to men of the earth for the purpose of defending the weak and lowly, for the purpose of lifting them up in the scale of being, for the purpose of teaching some of that equality on earth which is certain in Heaven, then, sir, I undertake to say for myself that it is a deception and a snare. The Senator professes the doctrine and violates it shockingly, impiously, wickedly, at every turn. He rises here and gives us dissertations on the inequality of men, the impossibility of the negro being the equal of the Caucasian. Mr. President, the distinction was not made by their Maker. We are not told that there are dividing places in Heaven for classes and castes and colors and shades. There is not a Christian church in the world of all the denominations that does not admit them to be upon the same plane; but the Senator, while he boasts his Christianity, violates its most sacred purposes and principles.

I was reminded yesterday when he had nearly a mule's load of books around him, that there was one which he might have added with advantage to himself. I hold it in my hand. It is a simple and old book. There are supposed to be truths in it, and the honorable Senator professes to believe them. While he was denouncing the inequality of men and boasting it loudly, I opened it at a place where a man who was known in his day and generation, and is not forgotten yet, had spoken. His name was Paul, and on an occasion when he met the Athenians, who thought themselves the greatest of all the earth, who boasted their superiority and eloquence, and who called every outsider a barbarian or an uncivilized semi-barbarian—they were like the honorable Senator in everything but that they were great



in art—Paul stood up among the Athenians and spake thus:

"Then Paul stood in the midst of Mars' Hill and said, 'Ye men of Athens, I perceive that in all thing ye are too superstitious.'" \* \* \* \* \*

"God that made the world, and all things therein, seeing that he is Lord of heaven and earth, dwelleth not in temples made with hands;

"Neither is worshipped with men's hands as though he needed anything, seeing he giveth to all life, and breath, and all things;

"And hath made of one blood all nations of men or to dwell on all the face of the earth."

Mr. DOOLITTLE. Read the next sentence.

Mr. CONNESS. The next sentence, Mr. President, the honorable Senator can read, and if he will read and study and pay attention to the spirit as well as the letter, he will leave the rotten faction and party that he has joined and come back to the men who have heart and blood and courage in advocacy of human right.

But there is another thing the Senator is in the habit of doing when he speaks here; and I have heard him do it I may say a hundred times. He calls up that great and beloved man now gone, our late President, as a witness, and he makes him responsible again and again for this vilest plan to organize rebellion politically. Sir, the man who left his residence when his health was failing him and went down to the front and witnessed the proceedings during the last ten days of the existence of the armed forces of rebellion, had his heart and his soul in his country's cause too deeply to ever trust one of the men who was on the other side in that conflict. It is true that he was a generous and charitable man, and, like us, would not use unnecessary severity against any person whatever, not even against his active enemies. But think you, sir, that if he had lived he would not have guarded with jealous care and fidelity, and organized the patriotism of the country, and preserved its Government so as to make it impossible to be again attacked so successfully as it had been? No man can doubt that.

The honorable Senator has treated us time and again to what he has called the "Lincoln-Johnson policy." "Lincoln-Johnson!" I have heard that a great many times from him. He used to come up here with a hand-organ and grind out *ad libitum* "the Lincoln-Johnson policy;" but if Johnson had stayed with us he had never turned musician! I do not know what the honorable Senator's mission is, whether it is music, statesmanship, theology, or what not. I may have something to say about that by and by.

He has a habit here, too, of speaking of the elections whenever through any cause whatever in any part of the country there is a seeming triumph of the party that he has now joined, but he will permit me to say, does not honor, for deserters always have a character, and it

abides with them and stays with them like the shirt of Nessus; there is no reorganization or reconstruction for them. The man who fails his comrades, the man through whom a cause is lost, has no friends, and for the best reason in the world, he is not worthy of them; and there is a common instinct that all mankind have, without the trouble of reasoning, which teaches them that very wholesome fact. If an election occurs in California, though the result was brought about by the shameless acts of faction in our own party, by means of which the men whom he has joined have made a temporary success, he heralds it here again and again and claims that those bad principles and those heinous policies that he now stands the advocate of have been indorsed. If the proposition has been submitted in any one or more of the northern States to give the ballot to the colored man, and through the monstrous and wicked prejudice which the existence of that brutal institution of slavery has sown, grown and built up among us, the proposition be rejected, the honorable Senator comes here and speaks loud and claims that it is a victory for him and his party! Well, sir, when a man or a party boasts of a victory like that, won with the seeds of injustice deeply in it, he or it has only to wait a little while to be destroyed. As sure as right is better than wrong as an abstract principle, so sure will any man or party binding up within its policies, error, and wickedness, fall thereby.

But the honorable Senator finds nothing in the Christian religion to engage him as an active missionary on the side of right, but he has gone out and counted his forces, and he calculated with his friend, the President, that the Democrats of the North, the rebels of the South, and the class that I denominated as the plunder-seeking Republicans wherever they are found, would make an overshadowing and overpowering party, and he joined it at once. Of course, he cannot immediately retreat; he has committed himself; but he does not tell us of how unfortunate he has been individually in his advocacy of these monstrosities. His State, not like mine by a local and party feud, but upon a fair election, spewed him out of its mouth. Its people have not said, "Well done, good and faithful servant," but they have said, "Go hence;" and I heard—I suppose it is not true—that the honorable Senator was going to Florida. He ought to remember that that is not the latitude for the Caucasian race. I rather think if he were there, particularly if the ballot should be maintained in the hand of the negro, he would overcome his scruples and go back to his old doctrine read by the honorable Senator from New Hampshire to-day and say, "I was mistaken for a while; the savage of Africa built up and intellectually strengthened and born again in



America is capable of establishing here in the tropics a republic that will rival the great Republic of the North;" and I suppose he would add, "and of the temperate zone," for I believe he always puts that in. I like to be accurate.

But not a word falls from his lips of how his partners have gone from him. When, in 1865 he met his party associates in a conference in a room not far from here, I remember well, before a word was spoken about the desertion of Mr. Johnson from his party, that Senator's speeches, and I remember well the speeches made by his associate for awhile who was a Senator from Pennsylvania, [Mr. Cowan,] and I remember well the coöperation of the gentle and amiable Senator from Connecticut, [Mr. Dixon.] There were a few more, but this trio were the leaders. They were evidently the marked and chosen leaders, chosen blindly and foolishly by the President. I remember the speeches they made in that conference, and how certain it was then that they were deserters, that they intended treason to our party and to our cause. What has been the history of every man who went with the honorable Senator on that occasion? He might well put that hand-organ down on some occasion, and go to one of the poets, and read thus:

"When I remember all  
The friends, so link'd together,  
I've seen around me fall,  
Like leaves in wintry weather;  
I feel like one,  
Who treads alone  
Some banquet hall deserted,  
Whose lights are fled,  
Whose garlands dead,  
And all but he departed."

I shall not speak, sir, of the dead; they have passed away; but where is the Senator from Pennsylvania, and where will be the Senator from Connecticut, and where will be the man who made music for them all? And where will he be, sadder yet, in the estimation of his countrymen? Where will he be fifty years hence? Where will he be when a century shall have come which shall render practical on earth some of the teachings of the Christian doctrine and make all forget their individual power, their superiority where they have it, and in place of trying to put their feet upon the neck of their fellows, who are already too low down, they shall be engaged in lifting up—nay, sir, shall have lifted up the lowly—where then will his record be? If he shall make answer to me he will do it with party twaddle, he will do it with that same old instrument, the crank of which he has turned here so often, and which has been made to play a certain number and order of tunes, and which the merest fool in creation can play as well, if he be able to turn the crank, as any of the great artists that have been known in that delightful profession.

The honorable Senator says we violated the pledges of pardon that the President gave. The President gave pardons, it is true, but who pardoned him? Is there any party in this land that are entitled to respect that have pardoned him for the great crime of deserting us, that have pardoned him for the falsehood spoken when he said to those poor, deluded men in Nashville, "I will be your Moses," meaning to be understood that he would be their leader and their light and their strength; and when in detestable contrast with those sentiments only a short time after, with our good President dead and he in power, in one of the rooms of the Treasury building he had the audacity and the shamelessness, addressing a number of colored men who called upon him, to tell them that they should be protected in their right to labor—they should be protected in their right to work. Yes, sir; their former masters were to be allowed to make contracts with them and to refuse to pay them for their labor, and the colored man to whom he gave the former promise was to be protected in his right to labor without the pay! There is such a thing sometimes as justice on earth, and sometimes men escape it. Without wishing to be harsh to the President, to whom I feel no personal ill-will, I think, if he were secured a while in the same right to labor, that it would be according to a high philosophy, the doctrine of compensation, eminently just and deserved. The military governor of Tennessee, at Nashville, holding a temporary place, said, "I will be your leader;" the President of the United States, representing all the power of the Republic, said "You shall be protected in the right to work," and at that time my Christian friend from Wisconsin was engaged in helping the President to maintain the latter promise!

He brings in a petition here, signed by a thousand of the white men of Alabama, representing, as he says, "the intellect and moral power" of that country. I do not know about the intellect; but if they represent the moral power, then there is a certain dignitary, who is said to have his chief abode in the infernal regions, who is the custodian and chief of all that power, and there is no God! Moral power, sir! What a shocking misuse of terms! Men, who, that the right might be secured to buy and sell human flesh, bodies and souls eternally, made war against the only Government that offered security to the liberties of mankind; men who, in making that war, violated all the usages of honorable warfare, butchered those whom they had in their power disarmed and overpowered, and made toys of their bones!

Right here, Mr. President, let me tell very briefly an incident of an excursion party. Long after the battle of Bull Run, and after the bones of our poor fellows had whitened on

the surface of the soil, an excursion party on horseback came out from Richmond. Let it be spoken but in shame, that they were composed mainly of what are called ladies; that they wheeled their horses and went back with trophies consisting of bones of human beings, their country people, the children of the same God, who had been slain by their fathers and brothers; and one lady, to be more distinguished than the rest, carried a skull off on her riding-whip as a garland and trophy. The Senator speaks of the moral power such people represent! I will not spend any time in undertaking to show, nor is it necessary to say, that every man of them who signed that petition, in all human probability, has a history either as bad as or worse than this man Perry, from South Carolina; and yet they come here to petition, to misstate facts, to denounce their fellows, to ask us to reinstate them in power that they may proceed to the full completion of the work which they failed to do by other means.

Mr. President, let me say before I go further, lest any man shall say or think that I would do a cruel or ungenerous act toward one of these persons, that there was no man in the nation at the end of the war, and there is no man in it now, who is so ready to receive them back when they are prepared to come back as American citizens, loving the flag, believing in the system of government, ceasing to tyrannize over and destroy the men that they the other day enslaved, when they shall have come to acknowledge that a man from Massachusetts or New York may take his money and his household gods and go into any State of the Union and live in peace and security. But, Mr. President, it is not so now; and this petition that the Senator has presented denounces such of us as say that it is not so.

There was in this gallery awhile ago a brave fellow who left my State and came here to take the fortunes of war for his country just after he had left college, and who undertook to settle in the South. In his character he is as gentle as a woman, in his moral and upright bearing he is a pattern in society. His very lineaments impress you with his nobility. He engaged in business; he has tried to live in the South, but he could not do it. To use his own words, gentle and truthful as he is, "no standard of character, no matter how elevated; no purity of life, no matter how simple and true, is a passport there to any favor. I was warned to leave again and again. I had determined to sell my life dearly if forced to do so, and I prepared means of defense in my household. I escaped a physical conflict, but finally had to leave."

It is not constitutional, says the Senator from Wisconsin; you are trampling the Constitution under foot if you preserve that man in the

plainest rights of an American citizen! There was a time, whether the Senator believed in it or not, when he stood forth as the advocate of the opposite doctrine; but the time has come when we have but the abandonment of that by the Senator, and his constant and oft-repeated harangues here.

When he rose yesterday the first utterance he made was that he did not rise to engage in this discussion as a party man. No sir, I suppose not. He did not belong to our party; that is certain; he has not been long enough in the other to have obtained a *status*, and so he is hanging between earth and heaven politically yet. I do not know where he will fall; but I know that he will fall; I know that he is falling; he is bereft of that element of moral power which he says these petitioners represent in the State of Alabama.

He says the distinguished gentleman who recently did not receive the indorsement of this body for a high office which he had once held, said on a certain occasion, and all their leaders say, that they mean first to get power, and next, if they do get power, they will trample free suffrage under their feet; they will reinstate their style of rule. Mr. President, if there be one of them so vain as to dream earnestly of it, I caution and conjure him to remember that the day has passed for rebel rule in America. The day has passed, as slavery has passed, when its damned instruments can longer control public opinion. Sir, let them undertake to trample under foot, and the next great example will make an epoch in human history never to be forgotten. As Wrong is weaker than Right and has not any of its inherent power; as Right is true and strong and bold, so will the one triumph over the other and trample it under its feet. That, sir, is where the trampling will be done, and the result of the vintage will be the pure wine of liberty, unadulterated, vitalizing, good for body and soul.

I have been at a loss, Mr. President, in thinking of it, to imagine to what caste, class, party, faction, or sect my friend really belongs; I mean in his religion; not while I listened to him yesterday, but while I have listened to him for the three years last past in this Chamber. I have not gone and made the researches that our friend from Massachusetts [Mr. SUMNER] could have done by turning his finger, and brought and spread before me all the systems of religion that mankind have known, so that I might have found the place of my friend from Wisconsin. Having found no place for him in the sect to which he professes to belong, I went to others, and among the rest I found me a book which gave the philosophy of the Hindoo religion. There is a great deal in it, sir; and I will say here in its behalf and for it, that if my friend belonged to it, was in full

communion with it, he would sever his present party connections and come and seek forgiveness of the men and cause he has betrayed.

I find that their religion divides their population into four castes or tribes or classes, and they are described according to their inherent faculties and their fitnesses for life on earth, and I suppose for life in heaven. They consist of the Brahmen, which is the highest—my friend from Nevada, [Mr. NYE,] I have no doubt will be deeply interested in this exposition, as he is known to be a searcher after truth. The next tribe or caste is the Kehlree; the next is the Visya; and the next and fourth and last is the Soodra. The Brahmen consist of those who have faculties that give this result: "The natural duty of the Brahman is peace, self-restraint"—that is bad for my friend—"zeal"—if that could possibly be meant to be associated with a bad cause, he could come in—"purity"—I will let him judge of that for himself—"patience, rectitude, wisdom, learning, and theology." Do you think he belongs there, sir? I should say not.

The natural duties of the second class are "bravery, glory,"—a brave man never deserts a cause, not even a failing cause; to use a vulgar phrase, he dies in his tracks; and that

is glorious; and the very next duty of that caste is "glory;" then "fortitude, rectitude, not to flee from the field"—my friend clearly does not belong there, for he did flee from the field; he left us, and he left us when we had the mightiest of works to do—"generosity and princely conduct." It is not "princely conduct" to flee from the field.

The natural duty of the third class, or Visya, is "to cultivate the land, tend the cattle, buy and sell." I do not know that my friend belongs there. I do not know that he has any talent for these pursuits.

The natural duty of a Soodra is servitude. In one sense, I think, my friend belongs there. He has joined the party devoted to the establishment of servitude. But on the whole, having discussed that with myself, I concluded that my friend could not be put with that tribe or class; and therefore I found no place for him in the Hindoo religion. I found he did not belong to the Christian religion, and there was no place for him among the Hindoos. He had left his party and his country in its greatest need, and not having my friend from Massachusetts at my elbow so that I might carry on my investigations further, it simply became my natural duty to pray for him. [Laughter.]





*W. D. Sexton*

## ADDRESS

*John S. Hager*

OF THE

MAJORITY OF THE

DEMOCRATIC MEMBERS

OF BOTH BRANCHES OF THE

Legislature of California,

IN PUBLIC MEETING ASSEMBLED.



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1854.

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# A D D R E S S

OF THE

## Majority of the Democratic Members

OF BOTH BRANCHES OF THE

## LEGISLATURE OF CALIFORNIA.

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FELLOW DEMOCRATS :—Sent here as your representatives, we occupy positions which enable us to discover dangers that sometimes escape your eyes ; and appreciating the responsibilities imposed on us as agents, we have proceeded, under the pressure of a great necessity, to meet in caucus, in order to consult upon matters threatening the welfare of the State and party, and to take such measures, subject to your approval, as are warranted by the Constitution, and as seem, in our judgments, to be called for by the exigencies of the time. These, we, as a majority of the Democratic members of both houses of the Legislature, now respectfully desire to submit to you.

The main of these measures is a resolution to enter into an election this winter to supply the seat of California, becoming vacant in the Senate of the United States, on the 4th of March, 1855 ; (scarcely more than a twelvemonth hence,) and the next to make some effectual protest against the interference of Federal power and patronage, with the local legislation of this State.

We believe you will, on due examination, agree with us on the necessity of both these measures ; upon the first, as one of the legitimate avails of the late State contest ; and upon the next, as indispensable for the preservation of our local independence, and our political self respect.

There are two classes of reasons which have brought us to these conclusions. First, because, under the Constitutions of the United States and the State of California, the present session is the legal and proper one in which to provide for the forthcoming vacancy ; and, second, because the condition of the Democratic Party, assailed anew by the revived machinations of the Whigs and Democratic Bolters of the late campaign, require at our hands prompt action and sudden check. In that memorable contest, fellow-citizens, it was your steadfast fidelity to Democratic order, that saved our principles and preserved our ticket ; and now, the same spirit is again required, both from you and from us, to frustrate this supplemental and desperate attempt to derange our discipline and deprive us of the richest prize of hard-earned victory.

The epilogue of that contest is now being performed before us. It is directed in the main by the same characters, inspired by the same motives, conducted on the same principles, and worthy, we believe, of the same ignominious fate. We trace the connection between these incongruous elements from the date of the "secret Circular," which was to rive the Democracy in twain and construct on its ruins a "Convention (Whig) Party ;" we follow a branch of the perturbed cabal into the late state Convention ; thence, we behold it issuing to unite again openly in favor of Waldo and the Whigs ; and now, we find both sections naturally fused together, and composing a phalanx, drilled for mischief, under "Secret Circular" leaders, to be manœuvred in compact operation on the very floors of this Legislature.

The last effort of this unhappy coalition—which as yet has succeeded in nothing—is to defeat the selection of a Democratic U. S. Senator this winter. It is a final spite of the Opposition against the Convention and Election, and they wage it through a motion for postponement, in order that the Senatorial question may be thrown like a firebrand into the next general canvass, to consume our narrow aggregate majorities, to breed in our large and closely balanced counties bitter and distracting feuds, and to slip between the striving candidates a Whig electoral majority, to curse our empire in the National Halls with a barren sceptre and divided rule.

Impressed with the danger comprehended in this state of affairs ; seeing it plainer from our positions than you can see it, and being empowered by you, to deal with all such exigencies, we followed the immemorial resource of the Democracy in times of danger, and agreed to meet in council for the party safety. To those who differed with us in opinion, we offered the olive branch of equal voices, and proposed to submit our common views to fair debate on the floor of a Convention ;

but the invitation was peremptorily rejected, our views were scorned, and the Opposition bolted the Caucus, and as it seems they are disposed to bolt every action which they cannot fashion, appropriate, or control.

We do not wish to infer the extreme of unjust motive against every one of the quasi members of this supplemental plot ; and in evidence of sincerity in this respect, will permit ourselves to review before you, the reasons they set up as sufficient, for refusing to the Democracy of California, the priceless benefit of one sixty-fourth part of the Government of the United States, for six entire years. Except out of respect for that portion which we concede may have been in honest error, we would scarcely occupy our time and yours, in such a task.

They object, first, to the constitutionality of an election this winter, and insist that it is out of time ; in short, too early by a year. On this subject we find the following, in the Constitution of the United States :

Art. 1, § 3. "The Senate of the United States shall be composed of two Senators from each State, *chosen by the Legislature thereof*, for six years.

§ 4. "The *times*, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof ; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

This is all the authority we find in the general charter of the government on the subject under consideration, and upon its warrant, the State of California, on the 30th of January, 1852, passed an Act regulating the manner of electing its U. S. Senators ; but aware, like the U. S. Government, that no general rule could be prescribed to meet the unforeseen exigencies of all the States, it wisely abstained from fixing any special time for holding such elections. The silence of the Constitutions of both State and Union, therefore, was plainly a direct reference of the point of *time* to the discretion of the Legislature.

Constitutions are the carefully prepared Supreme Law of States. They are the work of patient inquiry and careful deliberation.—Within their scope nothing is overlooked—nothing done in a hurry. Whatever they do not prohibit, they permit ; nay, in omissions such as the one before us, they ordain ; and their refusal to fix a time for such an important event as the election of a U. S. Senator, is a direct reference of that subject, in its most extended bearings, to the discretion of the State Legislature.

In absence, however, of any of the special circumstances which seem to have been conceived when these omissions were made, the obviously proper time for holding such election is, during the session of the Legis-



lature next preceding the one when the vacancy occurs. In support of this view we have the natural bearings of the case, and likewise the records of the U. S. Senate, as transmitted hither, recently, by its experienced Secretary, in answer to an enquiry which was designed to furnish instruction for us, in the way of precedent. In presenting the following letter of the honorable Secretary, we will only pause to say, that the Opposition, staggered by its testimony, have actually endeavored to pervert it to their own use ; and we request you to measure, if you can, the desperation of that cause, and conceive, if possible, the effrontery of that faction, which could have adopted such a bold resource, to sustain what they felt to be an utterly indefensible position.

OFFICE OF THE SECRETARY OF THE SENATE, U. S. }  
WASHINGTON, 17th November, 1853. }

SIR :—In answer to your inquiry, I have the honor to state that, upon examination of the records of the Senate and other means of information now within my reach, for the last twenty-three years, it is found, that, *in every instance*, where before the expiration of a Senatorial term, a Senator has been elected for the ensuing term, he has been elected at the session of the next Legislature *next preceding the commencement of such term*.

The uninterrupted uniformity of this practice for so long a series of years, and throughout all the States in the Union, seems to render it unnecessary to carry the examination further back, especially as I see no reason to doubt that the result will be the same.

In this examination I have been aided by a reference to the American Almanac, in regard to the time of meeting of some of the State Legislatures, the admitted accuracy of that work justifying such reference. But as that publication was not commenced until the year 1830, the like information in regard to previous years, must be sought in various sources—many of them difficult of access—and would require very considerable time.

I have the honor to be, Sir,

Your obedient servant,

[Signed]

ASBURY DICKENS,  
Secretary of the Senate.

OFFICE OF THE SECRETARY OF THE SENATE, U. S. }  
December, 2d, 1853. }

SIR :—Since my letter of the 17th ult., the examination has been carried back to the very first session of the Senate, 1789, and, as far as can be ascertained from the Records of the Senate, it is found, that, *in every instance*, where, before the expiration of a Senatorial term, a Senator has been elected for the ensuing term, he has been elected at the session of the State Legislature *next preceding the commencement of such term*.

I have the honor to be, Sir,

Your obedient servant,

ASBURY DICKENS,  
Secretary of the Senate

According to the Secretary, therefore, uninterrupted custom, backed by the spirit of the Law, has sanctioned this Session, (as the one "preceding the commencement of the new term" of March 4th, 1855,) to be the proper time for holding an election to supply the seat of Mr. Gwin; and it is really a matter of surprise, that any could be found, among those who have the remotest knowledge of the penalties of deception, to assume, that the unmistakeable language of "*next preceding the commencement of a new term,*" should be received as meaning, *the midst of a Session when such vacancy occurs.*

While using the evidence of Mr. Dickens for our case, liberality induces us to admit a few precedents (evidently overlooked by him,) which disturb his rule, though not sufficiently to make a rule themselves. The cases of Pratt of Maryland and White of Tennessee, are readiest to our minds, and in alluding to them, we feel it our duty, further to say, that though Mr. White was elected nearly three years in advance of a vacancy, it is said to be "a part of the history of the times," that his election was received by the People with general satisfaction.

At this point too, we are willing to concede, that the precedents of Mr. Dickens, though they all make in our favor, are not to be taken as obligatory on the domestic action of this State. We recognize the sovereign right of California to make rules for herself; we desire to see her act independently when it suits her; to reject, if she like, the thralldom of old opinion, especially when unduly put forth in scarecrow appeals to "time-honored usage;" that when not controlled by positive law, she will not be bound by any dictates but those of her own solid judgment and paramount will. Custom, however, is entitled to some attention, and before our State ignores the proper respect for precedents which lies within the boundary of her reserved rights, we would ask, in her name, some better construction of language, than the bolting translation of the Secretary's letter; and some more respectable reason than Whig and Federal desire, saddled and bridled, and driven in a triple tandem, by and with a Custom House Collector.

Law and practice—the Constitution and the weight of custom, all repose on our side, and each will be violated and our rights foregone, if the election be illegally postponed and transferred to the stormy centre of a session, *during which* the vacancy occurs.

Moreover, an election next year, in addition to being out of rule, would be dangerous in policy, inadequate to the requirements of the State, and unjust to the member who may be selected for the place. Dangerous, because it would imperil the safety of our party, and because it would enlarge, to us, the risks of the next General Election

Inadequate to the necessities of the State, because the ensuing Legislature may fail to choose in time to meet the exigency of an Executive Session on the 4th of March of 1855 ; and unjust, because it banishes a representative who has served his State sufficiently well to be rewarded, to take a six years' exile, at an hour's notice.

There are obligations on both sides ; and a State which asks a man who may be largely identified with her by widely distributed interests, to become her public agent for so long a period as six years, should afford him time, at least, to wind up his personal affairs, in a manner not altogether ruinous to himself. In this regard California stands differently from every other State in the Union. We do not speak so much with regard to her geographical distance from the National Government, though that is something, as with regard to her domestic, financial, mineral, landed, agricultural and social condition. It is plain a representative may not arrange his business in either of these departments, in two or three days or weeks as in an Atlantic State, to undergo an absence of six years ; and we venture nothing when we say, that for ten years yet to come, the State of California should elect her Senators at least one year in advance of the rule of other States.

Indeed, if an alteration, for the future of the rule which justifies the election now, be advisable at all, we should much prefer an enlargement of the margin for choice, to a curtailment of the already too restricted period for preparation. That preparatory period, (as fixed by recent resolution between the 6th of next March and the 4th of March ensuing,) is short of a year ; and while you bear this in mind, we trust you will not forget to award a due condemnation to that want of truth, which has viciously misrepresented this period, as an advance of two and three years.

It suggests itself to us here, that the Congressional Representatives of California are elected more than a year in advance ; those to be chosen in the coming Fall, receiving their certificates thirteen months previous to the session when they take their seats ; and it further suggests itself, that the very parties — these " martyrs of principle " and apostles of consistency—who are so ready to sacrifice democratic ascendancy rather than see a United States Senator elected at an advance of even so much as a year, are the advocates who introduced and strenuously insisted on these extended marginal terms for representatives to the Lower House. If the principle is correct in that case, it is doubly obligatory upon the case we put. Representatives of the people have no formal duties to perform till the opening of the Congresses in which they are accredited to sit ; Senators who are the representatives of States,



sit in Executive session pending the opening of Congress, at the formation of new Cabinets. Though no executive session should occur within next year, one will surely take place on the 4th of March, 1857, and if we establish a precedent now, that a United States Senator may not be elected at the session preceding the vacancy, we lose a seat in the United States Senate at the expiration of Mr. Weller's term, and the right of California to help shape the Cabinet, and secure her share of those appointments which the States are latterly in the habit of regarding as among their most important interests. Here is a question of principle and precedent united, ample enough to supply the broad conscientiousness even of a bolter, and which, with the example before us of a session in our own State, (1851,) during which, through disagreement, there was a failure to elect, not even a bolter can have justification to refuse. Though he bolt the precedents of Asbury Dickens; rebel against the usage of a caucus—fight against us with the Whigs, in a general election, he cannot bolt this dilemma, without confessing finally, that he will recognize no precedents but those of revolt; no principles but those of destruction.

The prospects of an executive session on the 4th of March 1855, though derided by the Opposition, as the incident only of a new inauguration, is not so unlikely to occur. Presidents die; sometimes they scatter their Cabinets to the wind; and it is the part of wisdom to consider the whole of a subject, and provide for all contingencies.

Least of all, should it be overlooked, that without regard to an executive session, the newly elected Senator for California steps into the position of the old one, instantaneously, on the vacancy, and at once represents his State with the President at the White House, with the Cabinet in their offices, and with the side branches of the Government in a multiplicity of matters profoundly affecting those of her interests pending the opening of the session. These tasks he may perform by letter, if he remain at home; in person, if he go; but whether he go or stay, it is important he be chosen in sufficient time to enter on his labors, of all kinds, without any gap of representation against the State, as between him and his predecessor.

It is a maxim in politics that "the King never dies." and there must equally be no interregnum in Republican sovereignty, wherever a branch of the vital prerogative be lodged. The term of a Senator commences on the expiration of the term of his predecessor. The Constitution and the decree of usage prescribes the Legislature "next preceding that commencement" as the proper one to choose; and we hold, therefore, that it would not only be illegal, but almost criminal

in us, were we to push the ordeal to an unnatural time, and wound the State sovereignty with the interjection of a blank in a branch of its existence.

Objection has also been made to an election this winter, on the pretence that "the People have not been consulted on the Senatorial subject;" and it has been said by opposing minds, that it is our intention to disfranchise the masses and dispose of the question ourselves.

From you who know us in our several constituencies, we do not fear an unjust inference from such a charge. It is true, we do intend to dispose of the question ourselves, and just in the manner we have laid before you, (unless you otherwise direct,) and we intend so to do, because we feel we shall be acting for your benefit, and because, too, we believe we have your full warrant to act for you, in all general matters springing within the scope of representative adjustment. We do not believe your substantial sense is to be affected by mischievous clamor, or that you can be blown into anger by an insinuation that we intend to you disrespect. Both you and we understand the relations between representative and constituent sufficiently well, not to encroach on the one side, or be idly jealous on the other; and those of us who are Senators know that our lengthened terms were not jealously constituted with a view to continual response. We, of the other house, act always from the impulse of those sentiments which you imbue us with at the beginning of every political year, and we are willing to acquiesce, whenever you choose to intercept our judgment, in any and every direction you may desire to give.

We understand the platform between us, as you would have it with dignity to us both. We know that such powers as the people wish to exercise themselves, they reserve; what they wish to refer to more technical and practised umpires, they relinquish. In matters of law, they appoint judges to decide the law for them; in the choice of U. S. Senators, they depute the Legislature. They do not require to be especially consulted upon either style of inquest, and never wish to give instructions, except they mistrust their representatives, or cherish a directly conflicting opinion. Those who fawningly consult them too much, are apt to insult them a little. If they do not exhibit parasitism, they betray wire-pulling speculation; or by too much dependence for direction, confess a servile incapacity that proves them unfit for the bold responsibilities in times of danger, which make a representative invaluable.

We know that you designed the Legislature to elect U. S. Senators, and that you reserved to yourselves the direct privilege of electing the

Legislature ; and we know, too, that you would as cheerfully acquiesce in our choice this winter, as you would have acquiesced in the action of the last Legislature, had a Cabinet appointment produced a premature vacancy in the place of Mr. Gwin. Such exigencies are always in the road of action, and you have provided for them by the manner in which you have constituted us. We shall always be ready to act for you to the best of our judgments, bound by our oaths and governed by our sacred honor ; and we rely on the opinion we deserve from you to guard us from imputation at the mouths of bolters, who, while pretending to be " martyrs of principle," have been persistently engaged in seeking to destroy every principle that is dear to the Democracy.

The outcry of such politicians about " the People's rights," is too hollow to deceive ; and we refer you to the antecedents of those who set it up, to instruct you how highly they respect your rights, and how much more than we they are governed by public spirit and a concern for party welfare. Such new born love of principle, such unlooked-for high-mindedness, comes with strange grace from those who sought to cut the throat of our party over the threshold of the Benicia Convention, who tried to betray our flag upon the field of battle, and who now stand even here, linked daily, breast to breast, with clasped shields, to our enemies, the Whigs ! The wail of anguish, then, which they set up in your behalf, through travelling emissaries on leave, and letter-writers from the arm chairs of the Custom House, is the mere trick of demagogues, not conceived with a view of arousing invaded privilege to a sense of honor, but in the hope to breed a dissatisfaction in vain minds, that may give them time to play concealed hands. This is, in itself, the greatest insult that could be offered to you, for it presupposes against you both ignorance and weakness, and it is merely a manoeuvre to cloak your eyes, while a lance is flung into your shoulder.

It has been charged against us, also, that we have endeavored to dragoon the minority into our views by getting up a caucus ; and on this a word.

We, as your agents here, perceived by numerous indications, that a crisis of opinion was approaching among the Democratic members of the Legislature, which threatened the most serious consequences to our party welfare. To check this feeling, to conciliate prejudice, to compare views, and make compromises with a liberal spirit, we proposed to our colleagues that we should enter together into council, and of course, be bound by whatever line of action the majority should in your name adopt. This is a course which has been sanctioned by Democratic cus-



tom since the days of Jefferson, and in addition to that license, it bears the paramount warrant of being the only mode in which parties can efficiently protect themselves in cases of unforeseen and vital peril. This proper measure, this "time-honored custom," was flatly refused by thirty-eight of our number, who, after having dictated "usage" to California, which, as a sovereign, is not amenable to "usage," ignored this law of usage themselves, who were merely agents, and gave rein to their instincts by bolting the Caucus. Their main pretence of opposition was, that the *time* of fixing the Senatorial election involved the discussion of a *principle*, which did not come within the scope of Caucus, and by way of giving this some force, they entered into a little caucus of their own to decide the *principle*, that a caucus had nothing to do with principle at all. A consistent conclusion for such a convention, and quite agreeable in logic with the Address which came from it, at its parturition; and especially worthy of its dernier resort, that "majorities are sometimes wrong."

It is true, majorities are sometimes *wrong*, but minorities must bear in mind, that they are in danger of becoming *criminal*, according to the law of party, in not abiding by their verdicts—right or wrong.

The rules of the Opposition in this matter is the way by which small offenders *bolt* against the law, but their minority argument in favor of doing as they please against the majority of society, generally avails them very little before an upright jury who have been in the habit of respecting the laws of the majority themselves.

In the case before us, the minority had no cause to protest, much less to rebel. The question of time, was purely a caucus question. There was no principle to be considered; that had been established by the State and National Constitutions, clenched by the usage of the country; and the only point for deliberation was, the *fixing of a day*. The caucus was called, therefore, to deliberate upon an act purely of party policy, to settle an expedient, and not to decide a principle, and those who refused to recognise its action and respect its decrees, whether party organs or party men, deliberately relinquished all claims to democratic favor; all right to future notice.

One word more before we close, as to the charge that an election, by us, of a United States Senator this winter, will disfranchise the people of their rights of expression; and to present this properly, we must examine, with more care than we have yet done, what extent of privilege the people have desired to reserve to themselves on this subject.

By a wise arrangement in our plan of government, U. S. Senators are, in the words of Mr. Madison, "not so much the representatives of

the People as the representatives of the sovereignty of the States." The People cannot have a direct voice in their election, and therefore properly relinquish the whole subject to their representatives. Until a fundamental change of our Constitution be made, this must continue to be the case; and but little reflection will show, that the rule works with a peculiarly wholesome effect on the example now before us. Should the Senatorial election, which is due this winter, be unhapily postponed the next campaign, instead of being one of party *principles*, would be strictly one of *men*, and in the strife of passion and contending private interests our majority would be distributed upon the gale, and our *measures* would be shipwrecked. We ask you, fellow citizens if such a turbulent canvass as this, set on foot and agitated by such passions as you already see at work, is an ordeal as safe and proper as the one to which the Constitution and your own calm judgment, when undisturbed by violent appeals, has regularly confided it. Dangers like this had been foreseen by Jefferson, and to that foresight do we owe his maxim, that "whenever the Democratic party forgot its *measures*, and entered the political field simply for *men*, it was no longer a party, but a congregation of factions."

But one task now remains; and that is to rebuke the interference of the agents of the Federal power and patronage with our domestic politics, and to characterize that interference with the terms which it deserves—a duty that rising indignation warns us must be done with a watch upon our temper.

The National Government, as compared with the States, is but a subordinate agent; in short a clerk, appointed by the general partnership to collect and apply a portion of their rents, and perform such other tasks as the great sovereignties cannot, without some inconvenience and confusion, perform for themselves. It is the victorious Democracy which constitutes a central administration, just as the Supreme States constitute a central power, and we have a right to express indignation when that agent forgets its subordinate capacity, loses sight of its obligations, and purse-proud with fees and incomes, attempts to govern our actions, and perform the part of master. Yet such is the state of things between the Administration and the Democracy of California, and we feel that it has reached a point which demands from us a proper anger, and perhaps, at a future time, a due resentment.

The true Democracy of California, like the chivalry of old, are "without fear and without reproach;" none have a higher standing in the Country, or are more free from blemish. That Democracy contributed with its own heart to constitute the present administration, by its action

in the Baltimore Convention; and in the electoral college it cast the four bridal votes of California in the same direction. Lo, the response. The administration thus complimented, names for its first officer in California, a person who owes his entire prominence before the world of politics, to the occupancy of his place. Its agents opposed the victorious Democracy at the Benicia Convention. They made alliance with the Whigs and Bolters to defeat us in the re-election of Governor Bigler. They are openly charged with having dispensed corrupting gold without success to thwart a County Convention which the Democracy of San Francisco approved by a majority of nearly four thousand votes. They unite with the Bolters and with the Whigs in opposition to the Senatorial election; and it is a notorious fact that the tried leaders of the Democracy—those who have kept the State upright in the faith, and waged her victorious through every peril in her existence, could not, though they should all combine, present influence enough at the door of the Custom House to secure an appointment to the meanest office in its departments.

This is a scandalous state of things. It exhibits not only a want of gratitude, but a blindness to moral obligation, and utter absence of principle that has no parallel in political history. We need not say it is unjust to the Democracy, because we have a right to denounce it as criminal; and we may define its whole character by the fact that, great as is the measure of the wrong to us, it is exceeded by the measureless disgrace its reflects on them.

Truly, this is a strange state of affairs, and the strangest part of it is, that the Administration should persist in its attitude without any open purpose, although its agents have passed through a series of the most ignominious defeats. Were it not for the number and signal character of these defeats, we would suppose it ignorant of the use made of its power here; we might believe it unacquainted with the company it is forced to keep, and quite blind to the deplorable depth to which those unhappy associations have sunk it in the public estimation of the masses of this State; but charity, though willing, can hardly yield it the remission of stupidity, and we are forced to conclude that the course pursued to the Democracy of this State, is an experiment of encroachment, (exhibited in a somewhat similar manner in other States,) and the general view of which is, to dragoon State politics under Federal control, and make the central power master of the country, through the vulgar influence of spoils.

To rebuke this attempt; to vindicate the dignity of our State and the Democratic party over the encroachments of the Federal agents;



to brand their presumptuous interference with another overthrow, we, as your representatives, shall insist on calling on the Senatorial election on the 6th of the approaching month of March. That will bring the question up, *within the year during which the vacancy occurs*, and we trust that those gentlemen, who, governed by motives, have, without due examination, been deceived about the time, and thus been induced into the union of the Whigs and Bolters will withdraw at once from the unblessed alliance ; gather under the broad unspotted banner of that true Democracy which has thus far always been victorious ; which is destined still to triumph, but which, whether victorious or not, is the only one that can wade over them, as Democrats, without shadowing them with disgrace !

The time is ripe for judgment. The crisis has arrived for action.—The masses of the State are examining the roll, and as the soldiers answer, they take sides forever. The Senatorial question, having been decided by a majority of the Democratic members of the Legislature to come on this winter, is the test. The Constitution permits, usage warrants, and the necessities of the time require it. That is our platform, and in good faith and honor, we plant ourselves upon it, and submit ourselves to you.

#### SENATORS.

##### *San Francisco County.*

JOHN S. HAGAR,  
WM. M. LENT,  
DAVID MAHONEY,  
E. J. MOORE.

##### *Nevada County.*

WM. H. LYONS.

##### *Yuba County.*

CHAS. H. BRYAN,  
JAMES G. STEBBINS,

##### *Tuolumne County.*

JAMES W. COFFROTH.

##### *Sacramento County.*

G. W. COLBY.

##### *Santa Barbara County.*

PABLO DE LA GUERRA

##### *Santa Cruz County.*

B. C. WHITING.

##### *El Dorado County.*

H. G. LIVERMORE  
G. D. HALL.

##### *Shasta County.*

R. T. SPRAGUE

##### *Placer County.*

CHAS. A. TUTTLE.

## MEMBERS OF ASSEMBLY.

*El Dorado County.*

D. P. TALMAGE,  
ALFRED BRIGGS,  
JOHN CONNESS,  
G. McDONALD,  
H. HOLLISTER.  
E. C. SPRINGER,  
L. W. BALLOU.

*Placer County.*

G. H. VANCLEFT,  
JAMES O'NEILL,  
B. L. FAIRFIELD,  
B. F. MYERS.

*San Luis Obispo County.*

PARKER H. FRENCH.

*Calaveras County.*

W. C. PRATT,  
MARTIN ROWAN.

*Sacramento County.*

J. M. McBRAYER,  
F. A. PARK,  
J. W. PARK,  
T. R. DAVIDSON,

*Yuba County.*

C. W. DANIELS,  
J. C. JONES,  
H. B. KELLOGG,

*Butte County.*

RICHARD IRWIN.

*San Francisco County.*

ELIJAH NICHOLS,  
J. W. BAGLEY,  
JOHN C. HUBBARD,  
A. A. GREEN,  
J. W. SWEASEY,  
JAMES GILBERT,  
E. B. PURDY,  
J. W. KOLL.

*Nevada County.*

ISAAC N. DAWLEY,

*Tuolumne County.*

J. T. HOYT,  
H. B. GODDARD,  
J. J. HOFF.

*San Bernardino*

J. HUNT.

*Marin County.*

DAVID CLINGAN.

*Yolo County.*

H. GRIFFITH.

*Shasta County.*

JOHN A. RING.

*Monterey County.*

D. R. ASHLEY.

*Humboldt County.*

M. SPENCER.

G R E A T   S P E E C H  
OF  
HON. HENRY EDGERTON,  
AT THE  
UNION MASS MEETING,  
HELD AT  
PLATT'S HALL, SAN FRANCISCO,  
WEDNESDAY EVENING, SEPT. 21, 1864.

The President introduced Hon. HENRY EDGERTON, who was received with cheers and applause.

Mr. Edgerton said :

*Mr. Chairman, Ladies and Gentlemen:*—Three years and more have elapsed since I last had the privilege of mingling with my fellow-citizens of San Francisco, in a public assemblage like this, for the purpose of holding counsel and deliberation with them on public affairs. I need not say it is with a pleasure I have no power to express, that I again find myself in this grand, majestic presence, favored with an opportunity to speak upon those solemn and mighty issues that are pressing so heavily upon the heart and mind of the nation, and under circumstances so propitious as those by which I am now surrounded. I stand in the environs of the far-famed, opulent and loyal city of San Francisco. Born of the earth and the sea, nurtured by storm and convulsion, swept by fire and rocked upon rising earthquakes, yet here it proudly stands, freedom's strongest fortress built by free-men's hands. (Cheers.) I am saluted by an audience whose spirits are always self-attuned to the swelling themes of which I would speak, and where he who essays his oratorical art, however feeble his thought or homely his phrase, if he but strike upon the grandly melodious and loyal chords of the great heart that beats in this hall, is sure to evoke thunder tones that reverberate to the farthest verge of the State, and enkindle the loyal impulses and warrior instincts of the sons and daughters of freedom in all its mountains and valleys. (Applause.)

I see around me many of the veterans of that old guard of Democracy with whom in times past

I have fought side by side on the difficult and contested field of politics. I make no allusion here to that dark Copperhead cabal, hatched from the cockatrice egg of treason which plots by day and night against the life of the Government, and the dearest interests of humanity, and impiously places its heresies under the invocation of the name of Democracy. I refer to those solid, heroic columns that marched under the leadership of Douglas and Broderick, now dead and in Heaven (cheers), and Dickinson and Johnson, and Butler, and a score more of grand old field-m Marshals; and however grave their faults or mistaken their policy ever kept pace to the music of the Union, tolerated no creed but the perpetuity of the Republic, the supremacy of the Constitution, and fidelity to the laws, and indulged no hope but their ever accumulating and brightening glories. (Applause.) I see here many—probably a majority—who were of another powerful and triumphant party of the past. Their patriotism was not less glowing or ardent than that of their adversaries; their rallying cry was "liberty and fraternity," and they marched to battle and to victory, bearing upon their banners those glorious inscriptions, "The Constitution"—"The Laws"—"The Rights of States"—"The Freedom of the Territories"—"Liberty and Union, now and forever, one and inseparable." They took to themselves the name of Republicans. In those days of party warfare we used to call them "Black Republicans," "Abolitionists," and, curiously enough, these epithets originally coined by a partisan ingenuity for purposes of opprobrium and reproach have recoiled upon some of their authors. They are now applied indiscriminately to all those who maintain and defend the Federa,



Government. Doubtless now, as then, they serve as escape valves for the bile and gangrene which prejudice and bad passions engender upon a diseased political stomach. I confess I have learned by experience that it does not require a very grim philosophy to submit to them; that they are incapable of exciting anger, of irritating or even ruffling the temper. I meet here also a few familiar faces that remind me of yet another and once dominant organization. They were the last occupants of the old Know Nothing mansion. They fled off under the leadership of Bell and Everett.— Their political faith, too, was comprehended in the terse, simple formula, "The Constitution, the Union and the laws." Though the rot of secession and treason has stricken off the head of their party, one of their standard-bearers has been "faithful among the faithless found." Most of their remaining members "still live," and form a vital element of that grander organization which to-day constitutes the strength and hope of the Nation. (Applause.)

In the strange mutations of politics and events, all these old lines of political demarcation have been erased; the old barriers between parties have been demolished; old partisan animosities have yielded to the superior passion of love of country; and all those old organizations, after having had each its hour of triumph and power in the halcyon days of the Republic, now that its crisis of trial and peril has come, have been drawn together by that elastic, powerful bond which underlaid them all—devotion to country. They have met and fraternized in that great cause which is above party, above all things else, because it is no less than the salvation of the Republic itself. Thus united by the strongest, most comprehensive affections of the human heart, thus welded together by the fires of patriotism, we go forth into the contest a resistless, an all-conquering host (Cheers.) Under the lead of Abraham Lincoln and Andrew Johnson, with the gorgeous ensign of the Republic full high advanced in our midst, and with "the Constitution," "the Union," "the laws," and "universal liberty and equality" for the devices of our shields, we swear to wage a determined, a relentless, victorious war against the enemy in front, and upon the infidel Copperhead foe in the rear. (Great applause.)

A Presidential campaign, always of absorbing interest and most serious concern to the American people is, in view of the stupendous events amid which it now occurs, and the tremendous consequences that will follow upon it, of unprecedented and immeasurable importance. Though it is to be fought upon a peaceful field, and with ballots instead of bullets, it result will, in my judgment, be far more decisive of the ultimate destinies of the Republic, than the whole series of sanguinary battles from the Wilderness to Richmond, and from Chattanooga to Atlanta, with the arsenal of the Confederacy reduced, and the conquest of its capital taken for granted. It is not now a physical question of victory or defeat to the embattled hosts before Richmond that engages us. We have entered upon an all-important, overwhelming, moral and political contest. It is not the smoke of battles that will obscure our view, nor do the dangers

that now threaten us most hang upon the uncertain issue of clashing arms. The perils which now lie ahead of us will spring from the fiercely encountering tides of public opinion. However much we may boast our power and glory, they are, after all, but an empire of opinion. It is public opinion that has made us all we are, and which is to-day weighing in its still vibrating scale the destinies of the nation. Accordingly as that opinion shall be kept vigorous, wholesome and sound, or suffered to become corrupted and enfeebled, will our liberties and institutions be kept permanent, vitalized and fecund, or fall into irreparable decay. If we but keep it up to the standard of an exalted patriotism, we may be assured there is a good genius in our politics which, if calmly, reverently, prayerfully invoked, will rule the storm and guide the ship of State into a haven of security; but let us not forget that there are evil geni on every side, in every wind and wave, in every thunderbolt and lightning flash, eagerly awaiting a favorable moment to lash to fury our already agitated sea, and drive the noble vessel with all its precious freight upon the rocks and reefs of secession and treason.

The first Presidential term of Mr. Lincoln is about to expire by constitutional limitation. Entering upon his administration at a time of unexampled peril to the nation, environed by dangers and difficulties, amid which he was without precedent for a guide; assailed by the deadliest of enemies from without; often betrayed by secret spies within; threatened with an unnatural, unlawful and treasonable deposition from power, he has, nevertheless, faithfully, successfully discharged his great constitutional trust (applause); and in spite of treasonable threats, his administration will close as it began, in the mode indicated by the organic law of the nation. (Great applause.) Each year, almost each month and week, of his official term has been distinguished by some great event, rendering it epochal in the history of the republic. It has let loose tempests, hurled forth gigantic demolitions, and added another to the long list of evidences that humanity can only progress over ruins. We stand reverently in the presence of these mighty dispensations: we know it is God who orders them all, and arranges them all to suit his own great purposes; that His ways are not our ways, and though wrought through the trials and tears of the nation, it is consolation enough to the Christian and patriot, that it is only the decayed, tottering portion of our fabric that has crumbled, and that the ancient foundations of our glory and power remain as stable and secure as when first laid by the hands of the fathers. We know, too, that a million of workmen are engaged, strengthening and cementing these foundations anew with their own blood; and clearing away the rubbish of offensive, injurious and inharmonious systems, preparatory to a reconstruction of the whole edifice upon the firm, everlasting base of law, of order, and of universal liberty and equality, regardless of creed, color, caste or race. (Great cheering.) If the present Presidential term has been one of revolutions and subversions in one section of our unhappy country, we have every reason to believe that that about to ensue, will be one of free, permanent and intelligent re-habilitations. We hope,

and, not without strong ground, that the same guiding hand which has hitherto controlled the tumbling wrecks of slavery, and a bloated, pampered aristocracy, will be continued in power, to re-collect these broken and dismembered States, to re-establish them in proportions more grand and durable than ever before, and in the spirit of a wise, statesmanlike philosophy, re-adjust them to that design so precious in the sight of the original builders, but which they failed to realize in the execution of their great work. (Applause.)

After conducting the Government through a season of appalling danger, in a manner that has commanded the fullest confidence of the masses at home, and excited wonder and admiration abroad, a vast majority of the American people, comprising those who acknowledge the authority of that Government, and are determined to maintain it, have unanimously tendered to Mr. Lincoln a re-nomination to the high office of Chief Magistrate of the Union. The platform upon which he stands is mainly an unqualified indorsement of his policy, both civil and military, and a noble expression of the reliance of his countrymen on his integrity and patriotism, and his ability to conduct the dread issues of war to a successful termination.

A minority of malcontents in the loyal States, composing a faction rather than a party, in secret co-operation with the councils of the Confederacy, have constructed a platform embodying an entirely distinct and antagonistic policy, and recommended to our suffrages George B. McClellan. For the first time in the history of parties, they exhibit the spectacle of going before the people with a platform that declares one set of principles, while their nominee professes, or has professed, doctrines of a diametrically opposite character. Doubtless they hope to seduce one portion of the people by the apparent soundness of their principles, while they dazzle the other with the shining and warlike qualities of the hero of the Chickahominy. Their platform will furnish the topics of my address this evening. Its first resolution is as follows:

"Resolved, That in the future, as in the past, we will adhere with unwavering fidelity to the Union, under the Constitution, as the only solid foundation of our strength, security, and happiness as a people, and as the framework of government equally conducive to the welfare and prosperity of all the States, both Northern and Southern."

A passing glance at the records of their acknowledged leaders, with a brief recurrence to their purposes and principles as manifested in the past will best illustrate the sincerity of this high-sounding resolution of fidelity to the Union, and at the same time reveal to us the contour of their whole movement. Organized largely from the basest, most fierce and licentious elements of society, we first saw an exhibition of its real character and tendencies in the streets of Baltimore, when its "Plug Uglies" stoned and murdered the patriots who were hurrying to the defense of the national Capital. Again, in Illinois, when its "Knights of the Golden Circle" forcibly assaulted the ballot-boxes and drove off loyal men, massacred defenceless women and children and burned their dwellings over their heads. And again, growing into tragic strength in that dark dismal drama enacted in New York, whose opening act was an armed opposition to a lawful draft, and its

closing scene a series of murder, of pillage, of incendiarianism and rapine, which rivaled in atrocity the most barbarous scenes of the French Revolution in its worst days. I do not assert that their party is entirely made up of these materials, but I do unhesitatingly affirm that numerically it is largely if not mainly composed of these dangerous elements, and that there is not respectability enough or weight of character enough in the party to hide them from our view, or to repress their seditious and criminal tendencies. This faction is rendered all the more dangerous by the energetic character, the brilliant qualities, and the unpatriotic instincts of its leaders. It has its subtle, intriguing intellects, its orators, its demagogues and its sophists. High on the roll of its chiefs is Alexander Long, of Ohio—a turbulent and unscrupulous demagogue and traitor, who in Congress has persistently opposed, both by his influence and vote every measure calculated to give vigor to the Government, invariably voting against every bill for supplies to the soldiers who were fighting the battles of the country. He bears upon his forehead the brand of an overwhelming vote of condemnation, barely escaping expulsion from Congress, for a savage, wanton assault upon the Government and loyal sense of the Nation, worthy the ferocious genius of a Robespierre or Marat. High in authority among them are Wyckliffe and Powell—those semi-traitorous representatives of Kentucky—whose highest sense of the duty of a loyal Senator and Representative is to multiply dangers and difficulties for the Government in a season of its greatest peril, and offer a factious opposition to its policy at every step—too mean and cowardly to serve the most cherished object of their affections, the Southern Confederacy, at the hazard of their lives and fortunes, they stand astride the line which demarcates treason from loyalty, with their hearts in Richmond and their heads in Chicago. (Applause.) They boast the championship of that rich, powerful, crafty, and cunning traitor, Fernando Wood, who, in the early days of the rebellion, when Mayor of New York, sought to facilitate the exportation of arms and munitions of war to traitors in Georgia; and who has since, from his high place in the councils of the nation, given out utterances which are at best but an exhortation to his minions and miscreants in the "Five Points" to resist the laws, to murder the lawful authorities, to let loose in riot and massacre, and burn, lay waste, and despoil a whole city. The faction is adorned by that sparkling jewel of patriotism, Horatio Seymour. He, too, says he loves his country. What has he done to serve it? When Douglas, and Dickinson and Johnson and Butler and their compeers, burst the bonds of party and sprang to the heights of patriotism and honor, and summoned the good and the brave of every country and race to enter the lists of glory, and contend for the martyr's prize in these God's great battles for country and humanity—(great cheering)—where was Roderick then? He wrapped himself in the wrinkled, cast-off skin of Democracy, sullenly withdrew from the sounding shore and crouched upon the low and groveling plains of party. When they were donning their coats-of-mail and putting their lances in rest for



the grandest of the world's tournaments for liberty (cheers), he sneaked off to the lakes and prairies to hunt wild beasts and dally with English Copperheads and Southern traitors. Occupying the high position of Governor of the Empire State, a position second in dignity and power only to that of the President himself, the weight and influence of which is powerful, almost controlling, on whichever side of a great controversy it may fall, he has found no more lofty occupation for his patriotic instincts than to make up false issues with the Government in behalf of charnel-house editors and demagogues, who higgler for the foul license of the press and of speech to villify and degrade the Government and excite wicked and ignorant men in the purlieus of New York to sedition and insurrection. Next looms up to our view the angry and sullen figure of Clement L. Vallandigham. I need not remind you of his career in Congress. It is written up in the public archives of the nation, and there it will forever remain a black, blighted and damning leaf. He offered himself to his district for re-election, and his loyal fellow-countrymen unanimously elected him to stay at home. (Laughter.) Subsequently he was kicked out of a camp of volunteers in Ohio for an outrageous insult to the honor and courage of the national troops. Finally, he was arrested for his inflammatory appeals to wicked and ignorant men in his district, and attempting to excite them to insurrection, tried, convicted, sentenced and exiled from his country for his country's good. (Cheers and laughter.) At last he re-appears to us, the live representative of English Copperheads in Canada to a Copperhead Convention in Chicago, holding the proxies of the rebel cabinet at Richmond, and of English pirates in Liverpool. (Cheers.)

"These were the prime in order and in might;  
The rest were long to tell, though far renowned."

Professing sentiments of devotion to the Union, and an ardent attachment to free government, they at the same time instil principles, if principles they can be called, which strike at the very foundation of the Union, and which, if they were to prevail, would undermine and destroy the last vestige of free government. They mingle with their poisonous drugs a slight admixture of seeming patriotism, with the hope of rendering them a little more palatable and easy to swallow. Leaving the ruffians of their crew to give the roofs of patriots to the flames, and their flesh to the eagles, in their unrestrained fury, these Belials and Molochs of a corrupted and fallen Democracy, sit close at the ear of public opinion, like their first progenitor in the garden of Eden at the ear of Eve, squat like a toad raising

—"distempered, discontented thoughts,  
Vain hopes, vain aims, inordinate desires."

They are powerful; they are dangerous. As some one has said of the Jacobins of Paris, they are bound by the strongest principle that ever held society together—they are banded together by the despair of forgiveness and universal detestation of mankind. There is no place left to them for penitence on earth. They labor under the most awful proscription of opinion ever pronounced against human beings. They have cut down every bridge by which they can re-enter the society of loyal

men. The moral situation of these men and of their co-conspirators is one of most refined aggravation—a consciousness of their position, their guilt, their infamy, and the detestation in which they are held, together with the recollection of their repeated and wicked attempts upon the life of the Government, form a sort of moral destiny which irresistibly impels them to the commission of new crimes. Though they are now restrained by the powerful arm of the Government, they continually meditate new crimes, new insurrections. But lately we have been startled by the details of another infernal plot, hatched in a Copperhead nest in Canada, which cast its long, black, overhanging shadows clear over the verge of treason, ramifying whole States within the loyal limits, placed under the supreme command of a rebel Major General, and which, if it had been successful, would have proved the final destruction of the Government. These, my fellow citizens, are the great high-priests of the temple lately erected to the Josh of treason by a Copperhead Convention in the loyal city of Chicago. They framed all the ordinances of its faith, and administered all its dispensations. These are the characters that now summon the American people to their chancel, to partake of the sacrament and be baptized at their hands in the turbid waters of a spurious faith, which they are please to label "Democracy." They carry on their infernal machinations against the Government, and attempt to seduce the American people into co-operation with their wicked schemes, and all in the name of devotion to the Union. What great sacrifice have they ever made for that Union? What statesman-like policy does their platform define for its preservation? Where is its stinging rebuke to the wickedness of treason? Where is its mild reproof, even of those who are wickedly committing it? What bright ray of hope beams out from it upon the future of the Republic? Where is its touching reference in remembrance of the noble? What spirit-kindling inspiration has it for the surviving heroes? Hear them:

"Resolved, That the sympathy of the Democratic party is heartily and earnestly extended to the soldiers of our army, who now are and have been in the field under the flag of their country, and in the event of attaining power, they will receive all the care and protection and regard that as brave soldiers of the Republic they have so nobly earned."

False and ambiguous as is their platform in regard to all other matters, its authors have made no attempt to conceal their low estimate of the character of our citizen soldiers. They regard and treat them as stolid, unthinking machines, to be used or abused, accordingly as they can make them subservient to their elevation to power. They either wilfully ignore or strangely misapprehend the materials of which our grand old armies are composed. Hundreds of thousands of our best citizens—men representing every avocation in life—the farm, the workshop, the counting-house, the arts and sciences, and all the learned professions; men who have a deep stake in life, and a keen appreciation of its obligations and duties, and who know the priceless value of a Government that covers its people with blessings, even as the waters cover the channels of the sea, have abandoned the comforts and charities of home to bear the heat and burden



of the fight on distant battle fields, in behalf of their country; and never since the world began, has a purer, holier flame lit up the heart of man than that which now enkindles the gleaming masses which are now unfurling the banners of the Republic from every fortress and mountain top in the Confederacy. (Great applause.) They believe the war they are waging to be a necessary, just and pious crusade against the enemies of liberty, and the best interests of mankind. They believe, moreover—particularly their most distinguished leaders, and old line Democrats, too, believe and assert—that the policy upon which it is now being prosecuted is the only policy that will ensure its speedy and successful termination. They believe, too, that a cowardly Copperhead demagogue, who insults and seeks to degrade them behind their backs, and malignantly ridicules and contemns that great and good Government, for the honor and glory of which they are ever ready to shed their blood, is worthy of being shackled and sent to Alcatraz, even if it has to be done by means of an "arbitrary arrest." (Great and prolonged applause.) But the platform upon which the Democracy invite them to come denies all this. It is the foulest libel upon them the genius of partisan malignity could invent or express. It vilifies their motives, stigmatizes their most cherished principles, and degrades their heroic achievements into irretrievable failures. Nor does the resolution I have just read contain any balm for all this insult. Touched and unmasked, it will be found to be more offensive than all the rest. It declares that the "sympathy of the Democratic party is heartily and earnestly extended to the soldiers of our army, who now are and have been in the field under the flag of their country," etc. The word *sympathy*, in its popular signification, is the synonym of *pity*. We say to a friend who has been successful in life, that we rejoice in his prosperity; to one whose life and projects have been failures, that we *sympathize* with and *pity* him. While the loyal masses of the Union are honoring their deeds of unparalleled valor with celebration and festival; while they are shouting hosannas that leap like live thunder from mountain to mountain, and shiver the forests and awaken the rivers to conscious strains of gratitude and praise to the heroes of Atlanta and the Wilderness, this cold, stony Copperhead heart of Democracy earnestly resolves itself into an expression of *pity* that they should have so covered themselves with glory in a cause which they espouse and applaud as the cause of God and humanity, but which Vallandigham, and Wood, and Powell, and Jeff. Davis happen to denounce. The resolution goes on to declare that "in the event of attaining power, they will receive all the care and protection and regard that as brave soldiers of the Republic they have so nobly earned." While the loyal men and women and children of the nation are performing those material, grand and sublime acts of disinterested devotion and benevolence to their soldiers that enoble human nature itself and put a new and cheering phase upon humanity—while they are pouring out their hearts in deep, bounding, exultant and never-failing streams of charity, this close-fisted, stingy and ambitious Democracy resolves, merely, that they will receive no special attention.

"in the event of attaining power;" and George H. Pendleton, their candidate for Vice President, and Vallandigham, and Wood, and Long, and Powell, who helped make the platform, have proven how much "care, regard and protection" the soldiers may reasonably expect from the Democratic party, "in the event of its attaining power," by steadily voting in Congress to withhold from them the poor recompense of greenbacks and their necessary rations of blankets, and salt beef, and hard tack; and Vallandigham, who was one of the draftsmen of this resolution, has shown how much consideration, in his judgment, "they have so nobly earned," "as brave soldiers of the Republic," by going into one of their camps, and so outraging their honor and aspersing their courage that they kicked him out. Hereafter, if a man comes into your house, and so abuses your hospitality and honor that you are obliged to kick him out, send him to a Copperhead Convention in Chicago, and he'll resolve that he "heartily and earnestly extends his sympathy to you," (laughter,) and that, in the event of his getting you in his power, you "will receive all the care and protection and regard that," as a "brave soldier," you have so "nobly earned." (Great laughter and applause.)

The first and second resolutions of their platform were carved out of a single and general resolution introduced in their convention by ex-Gov. Hunt of New York—that resolution reads:

"Resolved, That in the future, as in the past, we will adhere with unswerving fidelity to the Union and the Constitution, and insist on maintaining our national unity;" &c.

But when it got into the Committee on Platform, of which Vallandigham was a member, he espied this vital spark of patriotism it contained, to wit: "*The intent to maintain our national unity;*" and they put it out. It comes to us a cold, unmeaning, hypocritical vow, divested of the only principle that could give it vitality and soul.

The affection of these Copperhead devotees of the Union has an exemplar in the experiences of private life; there is a heartless wretch, current in society, devoid of those sentiments and affections which ennoble and adorn the character of the true man, whose whole being is absorbed by a lustful greed of money, who sometimes woos beauty for booty. Accident, fortune, perhaps—fortune to him, but misfortune to his victim—favors him with the acquaintance of some venerable old gentleman whose "mortal lease" has not long to run, who is possessed of immense estates and a lovely daughter, the sole heiress of all his fortunes. Aided by a graceful person, fascinating manners, and brilliant qualities, he gains easy access to the confidence and esteem of the old man, and is admitted to the hospitalities of his roof. His eyes gloat upon the wealth he sees around him, dwell upon the massive plate, spy out the diamonds that sparkle on the neck, and the jewels that glisten on the fingers of the daughter, and he concludes that he has fallen upon a "pleasant place"—that the property would not be bad to take. (Laughter.) He does not exactly like the idea of matrimony; knows he is too mean to love anybody; never did love anything but money, but sees no way of gobbling up the property without exhibiting an accursed revolt, and that is, to forcibly put it down.

the old man's broad acres, and brick buildings, and bank stocks and mortgages, and a little wild cat thrown in, perhaps—(laughter)—and being well assured that it will not be long before he will "slip his wind," he suddenly discovers that he has become "intensely interested"—not in the financial prospects of the heiress, oh! no, but in the young lady herself. He plies her heart with the most solemn asseverations of affection and devotion—you lecherous, hypocritical old Copperheads know how they do it—(great laughter)—swears to her in the language of this resolution, that he will "adhere with unswerving fidelity to the union," until at last, putting full trust in his protestations, the young lady surrenders. The banns are published, the nuptial ceremonies performed; the old man performs his part of the programme, and dies; the wretch becomes possessed of the estates, and then he reveals his true character. Then she learns, too late, that her sworn husband and protector is a cruel tyrant and villain; that her sworn "bond of union" is an iron link of misery; that it was the jewels which sparkled in her casket that caught the glare of his covetous eyes, and not her lovely charms that entranced his miserly soul; and she awakens from her bright, innocent, joyous, maiden day-dream of bliss, which his sworn "fidelity" to the union had conjured up to her, to realize a bleak, dreary life-long prospect of married woe; to the experience of that most biting and torturing of all human pangs, a broken heart and withered hopes. Precisely in the same way do these Copperhead Lotharios make their court to our venerable Uncle Sam. (Laughter.) He has splendid connections, his treasures are exhaustless; his farms cover a continent; his ships vex every sea; he is powerful; he rouses himself to his full majesty in the midst of war, with the trident of Neptune in one hand, and the sceptre of Jove in the other he hurls the Titans of rebellion to destruction, and keeps the would-be-meddlesome powers of the world at bay. (Great applause.) And then, too, he has in his gift, and which he dispenses once in four years, innumerable places of profit and honor; and it is these the Copperhead Democracy covet above all things else. He has, too, a lovely and beautiful daughter—the Union—to whom they now swear "they will adhere with unswerving fidelity," hoping by their false and hypocritical pretences of devotion to gain possession of the purse-strings and power of the Government—that accomplished, they would turn upon the poor and helpless Union, and leave it a broken and sightless wreck. But there are one or two essential points in which the parallel fails—Uncle Sam is in an eminently sound physical condition, and will live forever—(great applause)—always waxing stronger and stronger in increasing vigor, always superintending his own affairs, and always guarding his daughter from the defiling embraces of this platonic and love-sick Copperhead Democracy. (Laughter and applause.)

The second resolution, in its logical order, divested of that clause which has reference to alleged despotic and unconstitutional acts on the part of the Administration, and which is merely

humanity demand a cessation of hostilities by the Federal Government." They demand this because the experiment of nearly four years' war has proved a failure, and, inferentially, will fail in the end. Therefore the war should be terminated, by a convention of States, if practicable, and, if impracticable, then by other peaceable means. These propositions are startling, and, if true, they carry the whole controversy against us. Let us subject them to an examination by the tests of reason and fact.

We must not confound the war we now wage with such as usually occur between foreign nations. These, however wicked they may be, often issue from mutual crimination and reerimination, from mutual acts of commission and dereliction. They are often prosecuted upon debatable grounds of justice between acknowledged independent powers, each having the right to declare and wage war, and provided with no common tribunal, but the arbitrament of the sword, to which reference can be had for an adjustment of their differences. An armistice between powers thus engaged in war is entirely compatible with the duty, the honor, and the self-respect of each, and the respect of the world, and may result in a pacification which, while it brings explanation and reparation, leaves the integrity and independence of each intact. But the war we wage is one, in regard not only to the justice, but the inherent moral necessity of which, on our part, there can be no doubt, no argument, no speculation. (Applause.) We prosecute it against a treasonable league, formed out of a minority of citizens owning a sworn allegiance to an acknowledged, legitimate Government, provided with a tribunal adequate to the peaceful adjustment of all grievances that can possibly arise under it; formed, too, for the avowed purpose of usurping the authority of that Government, and wresting from it the largest and fairest portion of the domain in which it held lawful sway. Gigantic as is its power, it cannot be traced either in its origin or its progress, to any of those great moral causes which justify revolution, and confer majesty and might upon the arms of an heroic, oppressed people. It is a causeless, bloody insurrection against legitimate and just Government, which, in the whole course of its administration, has not only committed no wrong, much less any act of oppression on any citizen, but, on the contrary, has been a continual source of beneficence and prosperity alike to States and individuals. What instance does the history of the world furnish of a Government thus situated, that possessed the power to suppress it, suspending the expression of that power upon an armed rebellion, for the purpose of negotiating a peace with it? What Government could do this and maintain its honor, its virtue, its morality, its self-esteem, or the esteem of the world? If a person persists in the commission of atrocious crimes against your laws, do you enter into an armistice with him for the purpose of negotiating your peace? Your laws exact his forced or voluntary surrender to their authority, his trial and condign punishment. Government may extend pardon, but this is an act of grace subsequent to the vindication of



would bring your laws into contempt, and despoil them of all their authority. If a son persists in putting at defiance a just parental authority, does a wise father enter into an armistice with him for the purpose of negotiating his peace? If he should, he would soon find his authority gone, his son incorrigible, and himself devoid both of his own and his son's respect. I use these homely illustrations to show that there is inherent in human nature itself, in which the constitution of government is founded, an immutable principle which totally excludes from the moral economy of all government the very idea of negotiation or compromise with an unjustifiable revolt against legitimate, just and lawfully exercised authority.

Those, then, who demand a suspension of hostilities by the Federal Government, for the purpose of negotiating a peace, must base their demand upon one of two grounds: either that our resources and power are inadequate to the suppression of the rebellion, and therefore that a further prosecution of the war would be unwise; or that our cause is wrong, and the motives and purposes of those in rebellion are founded in justice, and therefore that its further prosecution would be impious. Our adversaries resolve both these propositions against us. They could not have placed the controversy upon ground more favorable to us. It is difficult to comprehend upon what state of facts, either accomplished or now transpiring, or upon what principle of predestination that portion of their platform which affirms the experience of nearly four years war a failure, with its inference that it will ultimately fail, is based. If the preservation of the great States of Maryland and Kentucky from the abyss of secession; if the creation of a new free State in Western Virginia, and putting into successful operation; if the forcible dispersion of the rebel armies from Missouri, Arkansas, Louisiana, Kentucky, Tennessee, Mississippi, and a large portion of Georgia and Alabama, and the transfer of their resources from the enemy to ourselves; if the recovery of most of the navigable waters in the States enumerated, with the whole of the Mississippi, and a partial restoration of its commerce, thereby riving asunder the Confederacy itself; if the reduction of most of its great cities, and the reclamation of most of the forts, arsenals, and custom-houses, unlawfully seized from us; if in all this, and in Donelson, Antietam, Gettysburg, Vicksburg, New Orleans, Atlanta, and an hundred other glorious battle-fields, there is written failure, then we have so far failed; and if in the present attitude of the Confederacy, compressed within the circling fire of the nation's wrath; its resources dissipated and its credit reduced to the precarious basis of piratical adventure; its military power massed upon a narrow, tottering base, shorn of all its prestige of success; its buccanery navy almost blown up and sunk, and its puny remnant skulking before our cruisers in every sea; if out of these conditions can be forecasted the final triumph of the Confederacy, then may patriots despair. This affirmation of failure and prediction of ultimate disaster is a lie and a false prophecy. The Federal Government has exhibited a military and naval power on a grander scale, followed by a train of successes of greater magnitude and importance

than ever before realized in the history of war. Under the very operation of the war, our resources and power have been developed to an extent immeasurable by any scale the experience of nations affords. What age of the world has witnessed a prosperity so intrinsically firm and great, so prospectively grand as that which prevails to-day in the twenty-one loyal States? What Government, during the arduous vicissitudes of war has maintained a financial condition more sound than our own to-day exhibits? Great and rapidly increasing as is its debt, it yet lags far behind its more rapidly multiplying wealth and resources. More than a million daily pours into its coffers; and the sagacious, far-seeing financiers of Europe are seeking its loans. What navy ever so formidable as that which to-night rides mistress of the seas under the Stars and Stripes? (Cheers.) When and where have armies been marshaled so powerful in numbers, and in the perfection of equipment and discipline, so covered with glory, so elate with success, as those which are now pushing their advanced posts to the last intrenchments of treason? (Great applause.) What people ever failed in an honorable undertaking, whose spirits and courage were so sprightly, grandly up, that they can send from fifteen hundred to six thousand citizens from their farms, their workshops, and their professions, to complete the great work which has been so nobly begun, and so splendidly prosecuted?

Viewed, then, simply as a physical question of resources and power, wherefore does a sound policy dictate a suspension of hostilities against an armed and wicked rebellion? And if the question be determined by those higher, more sublime and binding tests of honor, public virtue and morality, still less can we entertain any idea of the armistice the "Democracy" propose. We prosecute the war for the preservation of our country, its traditions, its glory, its liberties, and its honor. We prosecute it against a treasonable league that stretches forth its bloody arm to destroy them all, and erect upon their ruins systems alike detestable to God and man. If it should succeed, out of the ruin of our dissolved Union would arise a grim, vast, tremendous power, more terrible than any that ever overpowered the imagination, or subdued the fortitude of man. Going straight on to its end despising liberty, unappalled by peril, unchecked by remorse, this hideous, aggressive, and grasping monster would advance step by step until it had covered every inviting spot of your territory with the blasts of a black slavery, and manacled the human mind and conscience with the chains of a white slavery. Our cause is just; our arm is mighty; we are backed by the united moral and liberal sentiment of the age; we would preserve not only our Government, our Union, our liberties, but that honor, that virtue and morality, without which our Government and Union would be shorn of all their grandeur, and our liberties deprived of all their beneficence; and, wherefore then does liberty, justice and humanity, demand a capitulation with armed and bloody treason, which raises its black, hated, gorgon front to destroy them all? My fellow citizens, there is but one way, consistent with our honor and our duty, in which to dispose of this accursed revolt, and that is, to forcibly put it down.



(Great applause.) Put it down as Saul put down Agag—hew it right down through. (Tremendous applause.) The armistice, which this platform proposes, would prove a hollow truce, pending which the rebellion would reorganize its disintegrated forces, preparatory to a renewal of hostilities, and designing Copperheads and traitors ply their devilish arts to break down and divide our now united and invincible public opinion, split it into factions and scisms, so that when the monster reappeared we should be unable to destroy it. The armistice they propose, means re-organization, strength and gain to the rebellion, and dishonor, division, weakness and loss to us.

But let us assume an armistice for a moment: what have we to hope from it? Who, think you, would be the accredited ambassadors of rebellion? Those loyal, conservative men, who in the outset opposed secession, and earnestly desire re-union now? By no means. They would be those who would be under the dictation of Jeff. Davis, who proclaims in advance that dissolution of the Union, recognition and independence of the Confederacy, could form the only basis of negotiation. Toombs would be at your council board, who vauntingly boasted that ere the war closed he would call the roll of his slaves at the foot of Bunker Hill, and Walker, who declared he would unfurl the flag of the Confederacy from the dome of your National Capitol. Forrest would be there, fresh from the yet crimson and angry precincts of Fort Pillow. Quantrel, too, would be there with his belt hung with the scalps of his loyal victims in Kansas. John Morgan would be there. No—I mistake—he is dead. He is pleading for an armistice, and urging a suspension of hostilities with a view to friendly negotiations for peace at another tribunal. (Applause.) These are the honored and trusted pets of this humane, model government at Richmond. And it is with these characters or their *participis criminis*, that you are now invited to a fraternal embrace, and the banquet of friendly negotiation for peace. In what spirit would you be met? Of conciliation, of brotherly love, think you? Have you forgotten the haughty, insolent demeanor, the dictatorial attitude of these chiefs of chivalry to your Northern representatives when they met together in the councils of the nation? Think you the recollections of the last four years, with all their butcheries and crimes, have been calculated to soften their manners, or humanize their feelings toward you? They would fling in your faces the credentials of treason as their titles to your official recognition. They would bring you the characters of assassins, incendiaries and robbers, as their passports to your hospitality and fellowship. They would bring you the memories of Lawrence, Plymouth and Fort Pillow, to sweeten your deliberations. They would bring you their perjuries as guarantees of their good faith, and their blood-stained hands as the pledges of their fraternity. They would invoke the offended genius of a just and outraged government—to commend your pacific impulses; and smile upon your peaceful concession to the most heinous of all crimes, and point you to the skeletons that would rend their ceremonies in a hundred battle-fields and sit at

your side for an approval of your pusillanimous association with the murderers whose garments are yet moist with their blood. What would be their demands? Dissolution of the Union—recognition and independence—the establishment of a boundary line between you and them, which would give them the largest and most productive portion of your territory; restoration to slavery of those who are fighting the battles of your country; pecuniary indemnity for those who have yielded up their lives in its service. These, and a long train of kindred demands, too disgusting to the loyal sensibilities of any lover of his country to mention, much more seriously to contemplate, would form the subject of your negotiations. But the authors of this platform know that in the present mood of the rebel cabinet, nothing is more foreign to their wishes or their policy, than a re-union of these States. They know that its emissaries are at almost every court in Europe, soliciting not only recognition, but an armed intervention of the powers to compel it from us. They know that the rebellion is still formidable. They know the demon which enkindled them to the commission of their great crime, while it evokes from the seething pit of war apparitions more real, potent and appalling than those evoked by the weird sisters from their cauldron to the seared eyeballs of Macbeth, yet relinquishes not its spell upon them, but lures them on to "take the bond of fate," and that even now, in the desperation of their madness, they cry out like that arch traitor,

—"Lay on, Macduff,

And damned be he that first cries, hold, enough!"

(Great applause.) And knowing this—knowing that a convention of the States is impracticable, impossible—they suggest that the war should be terminated by "other peaceable means." What "other peaceful means?" Why, by the only conceivable means, a final dissolution of the Union. Great God! "they are ready to commit that crime against us, that crime against posterity, that crime against human nature itself, that crime the fatal consequences of which the latest generation would feel"—the crime of concluding peace with armed treason, at the abominable price of dividing their country and surrendering its honor, its glory, and its liberties into the hands of the most faithless and sanguinary traitors and tyrants that ever scourged the world, who at the very moment of the negotiation would be covered with the warm and smoking blood of five hundred thousand patriots and martyrs. Failing in this, under their false pretences of "free speech" and a "free press," under their lying pretenses of "arbitrary arrests" and "the illegality of drafts," they will seek to enkindle the base passions of the wicked and ignorant into the fires of sedition and insurrection, and thus inaugurate, in the very heart of loyalty itself, a civil war that would open up an era of abomination and crime, and terminate in that most horrible calamity to mankind—the disappointment of the world's last hope in free, representative, republican government.

We, too, demand peace—earnestly and prayerfully appeal to the great God of nations that its beams may soon dissolve the dark and bloody clouds that overcast our sky; and the signs of the

times indicate that the answer to our prayer is near. But it will be a different peace. It will be a peace that comes with the coming triumph; peace consistent with the dreaded majesty of a free State; peace rendered lasting by the total extinction of the principle from which the war sprang; peace which shall bind up the nation's trials and tears in the fruition of a glorious hope; peace that shall comfort widows and orphans with the knowledge that the noble sacrifice of martyrs has not been in vain; peace which shall assure women and childhood of a country in which they shall be honored and protected; peace in the glory of, which an American citizen may stand up, either at home or in the Courts of Europe, with an erect head, and walk with the majestic tread of a freeman; that honorable, final, long-enduring peace which God's great generals and armies are now forcing—a conquered peace. (Great and prolonged applause.)

But let us pass on to a further examination of their platform. It arraigns the administration for an invasion of "the rights of States." What they mean by "the rights of States," as stated in their platform, we are left entirely to conjecture to determine. It will be observed that their platform, while it abounds in generalities, is singularly deficient in its definitions. It is a splendid glittering ambiguity; a sort of sybiline leaf from which we have to appeal to the living oracles themselves, and out of their own characters, and political antecedents and principles, eviscerate its true meaning. The authors of the platform, and the Convention that promulgated it, belong to that school of politics known as the States' Rights school. The leading tenets of which is, that the sovereignty of a State is superior to that of the General Government. Mr. Long introduced a resolution at the Chicago Convention, that the first of the Kentucky resolutions of '98, be inserted in its platform as part of their creed. That resolution reads as follows:

*Resolved,* That the several States composing the United States of America are not united on the principle of unlimited submission to their General Government; but that, by compact, under the style and title of a Constitution for the United States, and of amendments thereto, they constitute a General Government for special purposes, delegated to that Government certain definite powers, reserving, each State to itself, the residuary mass of right to their own self-government; and that, whenever the General Government assumes undelegated powers, its acts are unauthorized, void and of no force; that to this compact each State acceded as a State, and is an integral party; that this Government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among parties, having on common judge, each party has an equal right to judge for itself as well of infractions as of the mode and measure of redress."

This resolution was drafted by Mr. Jefferson. From the series of which it formed a part, and the celebrated Virginia resolutions of the same year, drawn by Mr. Madison, has been built up that dangerous and false theory that our Government is a mere league of States, instead of a consolidated government of the whole people, and the last logical result of which is the right of any State peacefully to secede from the Union at will. The chief of this school, Mr. Calhoun, succeeded, by the aid of his powerful genius, in debauching

the Southern mind with this poisonous heresy, and we are now realizing some of its bitterest fruits. Madison and Jefferson, fortunately for their fame, lived to repudiate and denounce the construction put upon those resolutions by the nullifiers and secessionists of the South, and have left their recorded denial of the rights of secession and nullification. It is true, the Chicago Convention did not incorporate the Kentucky resolution in their platform. They passed it by in silence, neither professedly approving or disapproving it. But it cannot be disguised that it is a cardinal doctrine of their faith, and they probably omitted to re-assert it in their platform, with the hope of diverting men's minds from their *real* principles. The authors of this platform have been life-long disciples of that school of which the *Richmond Enquirer* is the chief organ, and which, in a recent issue, speaking of negotiations for peace, said:

"If the North desires to have negotiations for re-union entered upon at all, let troops and blockading fleets be withdrawn and the right of secession formally acknowledged, and then negotiations would be at least possible. If they invite us to negotiate on any other footing, our only rational answer would be another blow at the heart of Pennsylvania. We are not likely to consider the question of re-union with a sword hanging by a hair over our heads; and if such a proposal be made, we shall only conclude that it means war, and endless war, until one nation or the other shall be subjugated or extirpated."

Upon this alleged right of a State to peacefully secede from the Union, and nullify the laws of the Government, I confess the Administration has *trenched somewhat*. Daniel Webster argued it down thirty years ago, so effectually, that it can never be argued up again (cheers), and Grant and Sherman are now blowing it to atoms with powder and ball. (Great applause.)

The only remaining right of a State, to which their allegation of unconstitutional disregard, on the part of the Administration can have reference, I conceive to be the right of a State to maintain the institution of slavery. I am not about to enter upon any homily upon the policy or impolicy, the benefits or evils, of slavery. I only desire to get the exact attitude of the Administration toward the institution of slavery, both before and during the progress of the war, fairly and truthfully, before you. Our adversaries assert that the election of Mr. Lincoln was the commencement of a crusade against the institution of slavery on the part of the North, and that its destruction has been an end sought by the Administration, through the instrumentality of a war, which itself inaugurated; whereas, we say that the party which elevated Mr. Lincoln to power, gave the South the most ample and positive guarantee that it had no hostile design upon any of their domestic institutions; and further, that the acts of the Federal Government during the war, touching the institution of slavery, have only been resorted to as more efficient means of prosecuting the war. These are the two sides of the controversy fairly and antithetically stated. The party that elected Mr. Lincoln to the Chief Magistracy of the nation declared, as a fundamental article of its faith, that the maintenance of the rights of the States, and the right of each State to order and control its own domestic institutions according to its own judg-



ment exclusively, was essential to the perfection and endurance of that balance of power upon which our political fabric depends; and they denounced the lawless invasion by force of arms of any State or Territory, under any pretext whatever, as among the gravest of crimes. That article of their faith was a declaration of two principles—first, it declared that any State in the Union might maintain any institution they saw fit, so long as they were compatible with the Constitution of the United States and with a republican form of government; and, second, it also declared another sacred principle, by means of which, if enforced, liberty in Kansas would be protected from lawless invasions by the border ruffians of Missouri, and at the same time slavery in Virginia would be protected from John Brown raids. These principles Mr. Lincoln had professed from an hundred stumps in Illinois prior to his election, and reiterated in his first message to Congress. He further pledged his administration to their sacred observance; thus giving the only evidence of which the case was susceptible of a conservative and constitutional policy concerning the domestic institutions of the States. Does this look like a premeditated crusade upon the institution of slavery by the Administration, prior to its inauguration?

Again, the first session of Congress under his administration, and assembling on the 4th of July, declares:

*Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the Southern States, now in arms against the Constitutional Government, and in arms around the Capital; that in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or for the purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union, with all the dignity, equality and rights of the several States unimpaired, and that as soon as these objects are accomplished the war ought to cease. (Applause.)*

Does it look, up to that point of time, as if the war was being waged to destroy slavery? Again, in regard to the Act of Confiscation—and here, by way, of preface, I challenge any exponent of the principles of the Copperhead Democracy to point out any legislative act, any Congressional act, or clause of an Act, passed since this Administration commenced, that trenches upon slavery as an institution maintainable under a State government. (Applause.) Our adversaries declare that such acts have been passed, and they point us to the two Acts of Confiscation. Now let us see: The first Act of Confiscation declared that such slaves as were actually taken in the act of building forts or fortresses, or otherwise aiding in waging the war, should be confiscated upon the conviction of the owner of the slave of the crime of treason.

Thus, if a person in rebellion was the owner of a thousand slaves, and ten of them were taken in overt acts of war, the ten were confiscated, but the remaining nine hundred and ninety were left untouched; and the second Confiscation Act only advanced upon the first, so far as it concerned slaves, as to declare all the slaves of a person lawfully adjudged guilty of treason, forfeited to the

Government. They are confiscated on the theory that they are property. The slaveholders claimed the right to introduce their slaves into the Territories, under the Dred Scott decision, on the ground that they were property, like cattle and hogs. Nobody denies that the *property* of a rebel may be lawfully confiscated. And if slaves are property in a State or Territory, under the Constitution, why, in contemplation of law, may they not be confiscated like all other property belonging to traitors? Pending the discussions on these two measures in Congress, Mr. Sumner, the great *Hi-yu* (laughter) of abolitionism, said:

“I take this occasion to declare most explicitly that I do not think Congress has any right to interfere with slavery in any State.”

Mr. Fessenden says: “I have held, and I hold to-day, and I say to-day what I have said in my place before, that neither the Congress of the United States, nor the people of the United States through the Congress, under the Constitution as it now exists, have any right whatever to touch by legislation the institution of slavery in the States where it exists by law.”

Says Mr. Sherman, the brother of the great Gen. Sherman (applause): “We ought religiously to adhere to the promises we made to the people of this country when Mr. Lincoln was elected President. We ought to abstain religiously from all interference with the domestic institutions of the slave or the free States.”

Now I challenge them again, and I ask them to remember it, for I may meet some of them upon some stand before the people ere the Ides of November—and I hope I shall (applause)—I challenge them to name one single act of Congress during this Administration that trenches upon the institution of slavery, as an institution, under a State Government. They cannot do it. (Applause.)

Now let us examine the record of the military branch of the Government concerning the “peculiar institution.” I hope I am not tiring you, fellow-citizens. (Cries of “Go on! go on!”) “Address of George B. McClellan (laughter) to the people of Western Virginia.” Now, hold on a minute, Copperheads; don’t take the merit of this all to yourselves; it came out through McClellan, it is true, but it was approved by Mr. Lincoln. (Applause.) In this appeal to the people of Western Virginia, he says:

“Understand one thing clearly—not only will we abstain from all interference with your slaves, but we will on the contrary, with an iron hand, crush any attempt at insurrection on their part.”

Does that look like a war upon slavery by Mr. Lincoln at that point of time?

Again, in August, 1861, Mr. Cameron, then Secretary of War, urged upon Mr. Lincoln the adoption of the policy of arming the blacks against those in rebellion, and Mr. Lincoln refused so to do.

Again, in the same year, the Secretary of War, Mr. Cameron, wrote to Gen. Butler, commander at Fortress Monroe, directing him to permit no interference by the persons under his command with the relation of persons held to service under the laws of any State. And the same year he gave



Gen. Butler more explicit instructions, and more clearly defining the policy of the Administration in the conduct of the war. The Secretary of the War Department wrote as follows:

"It is the desire of the President that all existing rights in all the States be fully respected and maintained. The war now prosecuted on the part of the Federal Government is a war for the Union, and for the preservation of all the constitutional rights of the States and the citizens of each State." (Applause.)

Does that look like a war upon slavery?

Again, on the 31st of August, 1861, General Fremont, you will recollect, issued a proclamation in Missouri, declaring martial law, and also published an order emancipating the slaves; but President Lincoln annulled that proclamation and order.

The views of the Government were still further enforced in letters from the War Department to General Sherman, who commanded the expedition to Port Royal; and in orders by General Dix and General Halleck, in their respective departments, prohibiting fugitive slaves from being received in the Federal lines. And, on the 9th of May, 1862, came the proclamation of General Hunter, commanding the Department of the South, which included South Carolina, Georgia, and Florida. He, too, proclaimed freedom to slaves, and Mr. Lincoln annulled that proclamation also. Then comes his letter to Horace Greeley, who headed that radical sentiment of the North which was urging Mr. Lincoln to issue the emancipation proclamation. In that letter he says to Mr. Greeley:

"If there be those who would not save the Union unless they could at the same time save slavery, I do not agree with them; if there be those who would not save the Union unless they could at the same time destroy slavery, I do not agree with them. My paramount object is to save the Union; not either to save or destroy slavery. (Applause.) If I could save the Union without freeing any slave, I would do it; if I could save the Union by freeing all the slaves, I would do it; and if I could save the Union by freeing some, and leaving others alone, I also would do that. What I do about slavery and the colored race, I do because I believe it helps to save this Union; what I forbear, I forbear because I do not think it would help to save this Union." (Applause.)

Does that look like a crusade on slavery?

General Phelps, too, declared the emancipation of slaves, from Ship Island, and Mr. Lincoln stript him of his brief authority, and he has not been heard of since.

Again—on the 22d of September, I believe it was—in 1862, Mr. Lincoln published his preliminary proclamation declaring that, on the 1st day of January following, he would issue the proclamation of emancipation, unless, in the meantime, the rebels laid down their arms, thus giving them more than one hundred days to reflect, and to accept the alternative, either to lay down their arms and submit to the Government, and save slavery, or take the alternative—general emancipation. (Applause.)

And Mr. Lincoln declared in that first proclamation:

"I, Abraham Lincoln, President of the United States of America, and Commander-in-Chief of the Army and Navy thereof, do hereby proclaim and declare, that hereafter, as heretofore, the war will be prosecuted for the purpose of practically restoring the Constitutional relation between the United States and each of the States, and the people thereof,

in which States that relation is or may be suspended or disturbed."

He thus proved to the world most conclusively, by giving them an additional hundred days in which to return to their allegiance, and save their "institution," that he resorted to the proclamation of Emancipation solely as a means of more efficiently prosecuting the war. As to the power of the President to issue such a proclamation and enforce it with all the power of the Government in defence of our Union and liberties, there can be no question. It is deducible from the very nature of the Government, and is supported by the highest authority. John Quincy Adams said—"If foreign war comes, if civil war comes, if insurrection comes, is this beleaguered capital, is this besieged Government to see millions of its subjects in arms and have no right to break the fetters which they are forging into swords? No. The war power of the Government can sweep this institution into the Gulf." Webster asserted this power and Clay affirmed it; and it is against the authority of these great patriots and statesmen that Vallandigham and Wood, and Long and Seymour, et id omne genus—characters that never would have survived a nine-day fame but for their power to do evil, now raise their pigmy, lilliputian heads to instruct the American people in constitutional law. For one, I prefer to adhere to the opinions and teachings of the "sage of Quincy," the "great expounder" of Marshfield, and the "great commoner" of Ashland. (Great applause.) But our adversaries cry out *Mis-ce-ge-na-tion*—I believe that is the way they pronounce it. (Laughter.) By way of retort upon the Southern Copperhead, I would suggest to him that he go down South and count up his his curly-headed half-brothers and sisters. (Laughter.) The chivalry talk of miscegenation!

Their ancient, mixed and murky blood,  
Has crept through "niggers" ever since the flood.

(Laughter.) There is not a genealogical tree in the whole Confederacy but bears African fruit on every bough and branch (laughter); and, by way of fact, I reply, that Mr. Lincoln has amply proven that it is his wish to restore all this country to white labor; that his policy is to light up the benighted wastes of the South with the torch of a white civilization. He has urged upon Congress the policy of purchasing foreign territory for the purpose of removing and colonizing the blacks, and thus opening up our now slave territory to white emigration and settlement. He would encourage the sturdy honest white Germans and Irishmen and Frenchmen, and adopt them into our great American family, and invest them with rights and immunities equal to those who are native and "to the manor born," rather than foster that deadly incubus upon our prosperity and peace—African slavery. (Great applause.)

Who, that acknowledges the superintending hand of Divine Providence in human affairs, as he calmly reviews the successive phases of slavery during the progress of this war; as he contemplates a gigantic rebellion rising in its blood-red might to found empire and barbarism upon it as their corner-stone; as he notes the timid, laggard

—aye, friendly policy—of those who, hating, would nevertheless have saved it, in the mistaken hope of thereby saving the nation; and yet, in spite of the timidity and concessions of its own enemies; in spite of vast armies marshaled for its support, beholds it hurled back writhing, dying in the throes of that mighty war which was inaugurated in its behalf; who that comprehends these wonderful dispensations can fail to see in the Emancipation Proclamation the visible hand of Almighty Power? Who that will not bow to a

—“Divinity that shapes our ends,  
Rough-hew them how we will.”

Those who entered upon this unknown sea knew not upon what shore they would be landed. Mr. Lincoln no more premeditated emancipation as a fixed fact in his policy when the contest began. than the mind of Luther foresaw the eternal separation of the creeds when he began to oppose the sale of indulgences. The armies of the Union were marshaled, and the war was for a long time prosecuted upon a policy that had for its object the preservation of the Union without the sacrifice of slavery; “but an unseen hand gave the discharged arrow a higher flight, and a direction quite different from that it received from the bow-string.” In the womb of that very policy was born that measure which, violently torn from its mother by the bloody hand of rebellion itself, is destined in the end to destroy slavery, and make bright again the earth and sky of the unhappy South. Nor must we think less of that policy, because its results will be different from the original design. Who is it that has so beautifully said, man smooths, works up, fashions the rough stone the times bring to him—the moment, the instant may be his—but accident develops the history of the world? If the motives that actively co-operated in bringing about the great work to which they were unconsciously subservient, were worthy motives; if the powers that aided in its accomplishment, and the single actions out of whose concatenation it wonderfully arose, were intrinsically noble powers, and the actions themselves beautiful and great, then is the event grand, and we are at liberty to commend those motives, those powers, and those actions, and raise our admiration to a higher intelligence. How contrasted too in its moral and physical results, is the period which has followed, with that which preceded this great event. During the latter we squandered vast treasures; we had Manassas, the Peninsula Campaign, Fredericksburg, decisive results nowhere, and the spirit of the nation languished under an accumulated load of disaster and defeat. We sacrificed whole armies, and piled up hecatombs of patriots and martyrs to that worse than delusive theory, that slavery was too sacred a thing to be touched. Wherefore were our successes delayed? They awaited the speaking of that word which should bear witness to the hope of the Nation as now accomplished forever. On the first day of January, 1863, that dread word was spoken, and it was,—Emancipation and a recovered Union. [Great applause.] It electrified and brought to our support the whole moral and liberal sentiment of the age. It called to our side

an hundred and fifty thousand heroic defenders. Then Gettysburg came, Vicksburg came, Port Hudson came, Atlanta has come, and Richmond is sinking under its mighty spell. [Tremendous applause.] It shines by its own light; before our victorious armies, it goes; high above their banners, it rides, a shibboleth in camp, and an inspiration in battle. It stands out a bright, mighty, towering mountain-peak in our history, clothed with a moral grandeur that measures itself against the centuries, and upon its summit stands its immortal author, enveloped in a glory that streams down through the ages. [Great and prolonged applause.] Who would recall it? Who, as he looks back over the last three-quarters of a century, and sees England stretching her arm across the sea and striking the manacles from a million of bondsmen—sees France abolishing slavery in her colonies, and entering into a league against the slave trade—sees the Spanish-American colonies abolishing slavery, and breaking the despotic yoke of old Spain by one and the same act—sees Russia emancipating her serfs, and Holland and Belgium and Sweden declaring universal freedom to the race; who that notices all this does not feel that God has opened all the fountains of the human heart, and concentrated all the innumerable currents of opinion into a resistless, overwhelming tide that is destined to wash slavery from the world? (applause). After blighting the whole family of man, after desolating the whole earth with sorrow and crime, its fell spirit is gathering up its bloody robes, and amid storms and convulsions is taking its flight from the world, and will leave but one mourner behind, and that is the Copperhead Democracy. (Great applause.)

But I am wearying you with my too lengthy remarks. (Cries of “Go on—go on.”) Well, I will touch briefly upon one more topic, and then make way for more eloquent speakers who will follow me. I desire to make a few comments upon those acts of the Government which our opponents characterise and denounce as “arbitrary arrests.” In numerous instances throughout the Union, the military officers of the Government have disregarded the forms of civil law, and arrested and confined hostile and seditious persons whose influence and practices are dangerous to public safety. These arrests are justified, or attempted to be justified by the adherents of the Administration, on grounds of public necessity, and under the war power of the Government. I propose to take the case of Merriman as illustrative of the whole subject. It will be remembered that, in the early days of the rebellion, one Merriman in Baltimore, Maryland—a lieutenant, I think, of an infantry company—had prevailed upon his company to go with him into the ranks of the rebellion to make war against the Government. There was no Congress then in session, and President Lincoln ordered General Cadwallader to have him arrested; he was accordingly arrested, and application was made to Chief Justice Taney, of the Supreme Court of the United States, for a writ of *habeas corpus*. The writ was issued, and General Cadwallader refused to obey it. Upon the return of the writ, Chief Justice Taney wrote an opinion in which he de-



nounced President Lincoln as a dictator and a despot, and said he deposited that opinion in the archives of the Nation as an evidence of the degeneracy of the times. He said this much better than I can say it, but that is the substance of it.

Now observe, that Merriman was about to start away immediately with his military company to join the forces of the enemy. There was no Congress in session to act upon the matter, and, therefore, President Lincoln took the responsibility of declaring martial law and ordering the suspension of the writ of *habeas corpus*.

And it is this act of President Lincoln which Chief Justice Taney denounced as unconstitutional, tyrannical and despotic. Not many years ago, the Supreme Court of the United States had occasion to pass upon the question of the military powers of the Government in times of insurrection, and to decide where those powers were lodged. I allude to the case of "Luther vs. Borden, et al."—a case perfectly familiar to all lawyers, but not so familiar, perhaps, to the people. The opinion is that of nearly the whole Court, and was rendered by Chief Justice Taney himself. It is a sound and unanswerable exposition of the whole law upon the subject of "arbitrary arrests," and it will not be amiss to popularize its principles. The history of the case is briefly this: Martin Luther, a citizen of the State of Massachusetts, brought an action of trespass *quare clausum fregit* against the defendants, citizens of the State of Rhode Island, for breaking and entering the house of Luther, on the 29th of June, 1842. Defendants filed four pleas in justification, averring, in substance, an insurrection of men in arms to overthrow the Government of the State by military force; that in defence of the Government martial law was declared by the General Assembly of the State, (as it has been declared now by act of Congress, or by the President, under the authority of Congress); again, that the plaintiff was aiding and abetting said insurrection; that at the time the trespasses were committed the State was under martial law, and the defendants were enrolled in the fourth company, in defense of the government of Rhode Island, during the Dorr rebellion. Commenting upon the acts of the defendants, and fully justifying them, the Court says:

"The remaining question is, whether the defendants, acting under military orders, issued under the authority of the Government, were justified in breaking and entering the plaintiff's house. In relation to the act of the Legislature declaring martial law, it is not necessary in the case before us to inquire to what extent, nor under what circumstances, that power may be exercised by a State. Unquestionably a military government established as the permanent government of the State would not be a republican government, and it would be the duty of Congress to overthrow it. But the law of Rhode Island evidently contemplated no such Government. It was intended merely for the crisis, and to meet the peril in which the existing government was placed by armed resistance to its authority. It was so understood and construed by the State authorities. And, unquestionably, a State may use its military power to put down an armed insurrection, too strong to be controlled by the civil authorities. The power is essential to the existence of every Government, essential to the preservation of order and free institutions, and is as necessary to the States of this Union as to any other Government. The State itself must determine what degree of force the crisis demands."

Now let me substitute in what follows the

words "United States" for the "State of Rhode Island," and then read it:

"If the Government of the United States deem the armed opposition so formidable and so ramified throughout the States as to require the use of its military force and the declaration of martial law, we see no grounds upon which this Court can question its authority. It was a State of war, and the established government resorted to the rights and usages of war to maintain itself and to overcome the unlawful opposition. And in that state of things the officers engaged in its military service might lawfully arrest any one who, from the information before them, they had reasonable grounds to believe was engaged in the insurrection; and might order a house to be forcibly entered and searched when there were reasonable grounds for supposing he might be there concealed. Without the power to do this, martial law and the military array of the Government would be mere parade, and rather encourage attack than repel it."

But, say the Copperheads, this power has been abused. This I deny. Point me to an instance of an "arbitrary arrest," as they call it, and I will show you a turbulent, noisy, blurring braggart and gassy traitor, that has met condign punishment, and whose freedom has been dangerous to the public safety. As to the liability of this power to abuse, we reply that all power may be abused. Your judges, your sheriffs, your constables, all your public officers, may abuse their powers. Commenting upon this branch of the case, the Court say:

"It is said that this power in the President is dangerous to liberty, and may be abused. All power may be abused, if placed in unworthy hands. But it would be difficult, we think, to point out any other hands in which this power would be more safe, and at the same time equally effectual. When citizens of the same State are in arms against each other, and the constitutional authorities unable to enforce the laws, the interposition of the United States must be prompt, or it is of little value. The ordinary course of proceedings in courts of justice would be utterly unfit for the crisis. And the elevated office of the President—chosen, as he is, by the people of the United States, and the high responsibility he cannot fail to feel when acting in a case of such moment—appear to furnish as strong safeguards against a willful abuse of power as human prudence and foresight could well provide. At all events, it is conferred upon him by the Constitution and laws of the United States, and must therefore be respected and enforced in its judicial tribunals." (Applause.)

Speaking of the propriety of judicial interference with the exercise of this power by the President, the Court say:

"Could the Court, while the parties were actually contending in arms for the possession of the Government, call witnesses before it, and inquire which party represented a majority of the people? If it could, then it would become the duty of the Court (provided it came to the conclusion that the President had decided incorrectly,) to discharge those who were arrested or detained by the troops in the service of the United States, or the Government, which the President was endeavoring to maintain. If the judicial power extends so far, the guarantee contained in the Constitution of the United States is a guarantee of anarchy, and not of order."

I have not the act at hand, but Congress has passed an act which most effectually guards the exercise of the power of military officers to make arrests. It provides for the transfer of such cases, after arrest, from the military authorities to the civil tribunals in the States not in rebellion. The power could not be more effectually hedged with safeguards to the liberty of the citizen, and at the same time be of any value to the public safety, than it has been by recent Congressional legislation.

It is both amusing and provoking to have to fol-



low the special pleaders of the Democracy through all their dodges and turns on this subject. First they said that the President had no power to declare martial law or to suspend the writ of *habeas corpus*, and that the power resided in Congress alone. But the Constitution, in its terms, is silent as to what branch of the Government is invested with the authority. It simply provides that in times of insurrection and invasion the writ may be suspended, without expressly designating by whom the authority shall be exercised. But one would suppose, that from the nature of the power, it was lodged in the President, who, under the Constitution is the head of the military department of the Government. But Congress has met this objection, and authorized the President to declare martial law and suspend the writ throughout all the States; and this he has done by proclamation; and now Copperhead ingenuity has discovered another dodge; and they say that neither Congress nor the President have power to declare martial law or suspend the writ in States not in rebellion. In those States they tell us that the civil law affords ample protection, and there is no danger. But a bitter experience has taught us that even in those States the machinery of civil law is oftentimes inadequate to the public safety; that your sheriffs and your marshals and constables are oftentimes too slow, and not unfrequently too deep in the mire of treason to put the civil law in motion. In times like these there is danger lurking everywhere, and the public safety demands the quick interposition of the arbitrary, repressive, military arm of the Government to squelch the secret plots of traitors ere they develop into riot and bloodshed.

The rebellion is a vast ocean which rolls its billows against every shore. The Upas-tree of treason which has developed to its full growth at Richmond, has extended its roots throughout the whole country, and scattered its seeds broadcast upon every soil. The Copperhead Democracy is, as it were, a long chain of volcanos, laid by the rebel cabinet throughout the loyal States, and united by subterranean passages, ready to ignite at any moment at the touch of Jeff. Davis, and burst out in the fires of sedition and insurrection. Ever and anon we hear their fearful mutterings; their craters have already opened upon us in Baltimore, in New York, in Maine, in Illinois, in Ohio, and here in our own State, hurling forth conflagrations, fiery mobs, massacres, and piratical expeditions. Go to the Placerville jail and ask the wretched Pool and Jarboe, and their associates, where they found their first incentives to crime, and they will point you to the treasonable spawn which your Wellers and Chipmans spewed upon your streets. But the "press" and "speech," they say, should be free. So they should. But there is a limit where their freedom should stop. Fire is free; but you have no right to burn down your neighbor's house. The air is free; but you have no right to poison it and infect a whole community. So are the "press" and "speech" free. But they are the most combustible of all materials, and no Copperhead demagogue has a right to use them to light up the fires of sedition and insurrec-

tion, and burn up the temple of our liberties. (Great applause.)

And now, my fellow-citizens of San Francisco, in this great conflict of opinion that is raging around us, under what banners are you ranged? The emissaries of the enemy are proclaiming to your loyal fellow-citizens in the mountains and in the valleys, that here in the very fortres of their strength in the citadel of their hopes, there is a wide-spread defection in the ranks of their allies. They tell us that whole regiments and brigades are breaking their-erred ranks and forsaking their standards of country, and filing off under the leadership of Coleman and Casserly, and Hoge and Haight, to reinforce the black and shattered lines of faction and treason. Can it be possible that he who has been so happy under the glowing inspirations of country as to read his partizan bonds and enlarge himself to the god-like stature of patriotism, who has inhaled its vital air, and bathed in its living waters, and walked in its starlight and its sunlight, is willing now, in the very hour of approaching triumph, to forsake this glory, and compress himself into a cold, slimy, Copperhead skin, and hiss back at those he would leave behind, and crawl upon his belly through the pits and cesspools which the scavengers of Democracy have dug out along the great pathway of honor and duty he now treads? (Cries of "No, no.")

Let Coleman, Casserly and their apostate associates go. Let it be known by all men, that after having become proselytes of the covenant, after having been circumcised in the faith, after having submitted to the whole law of the fathers, they broke their covenant, abjured their faith, and trampled upon the law. Let their defection be recorded in its full extent, and endure throughout all time, and let the dark shadows it has already cast upon their fame be a warning to all who would follow their evil example. Their conduct but corroborates the comment of the historian, that there is no cause so holy or sublime but that it may be betrayed, and no party or sect so pure but that it may have a Judas Iscariot or a Benedict Arnold. Already the cold sweat of political death is upon them, and six months hence they, with the platform upon which they stand, will be buried so deep in the waters of oblivion, that not a bubble will ever rise to mark the spot where they went down. (Applause.) But the patriotic, honest masses, will stand firm. Some of you will recollect old Hickman's splendid exhortations to the old anti-Lecompton men—God bless them! they are true everywhere (applause)—when he told them a classical story which runs thus: "Eurydice was brought from hell by her lover, Orpheus, upon the condition that he should not look back at her until safely upon the earth. But the lover could not wait—and they say lovers sometimes can't (laughter)—and so, just as he was crossing the border, thinking he had got safely into daylight, he gave just one look around in order to get a sly peep, and behold! she vanished back." Now, you old-time Democrats, now Union men, look straight forward! Don't look back upon the rotten Democracy—for, if you do, the moral of the story is, it will back to hell, and you with it. (Cheers and laughter.)

If this diabolical spirit of faction, that has been let loose from the pit of secession, and stolen into the paradise of our liberties in the guise of Democracy, shall succeed in beguiling the ear of public opinion with its smooth and glozing lies; if it shall succeed in debauching the public mind with its venom, until it yields to its fatal temptations, then woe betide our Government, our Union and our liberty. In that event, methinks I see the genius of history upon no far off point of time, gathering up the materials of a fallen grandeur and inscribing on her tablets that mournful epitaph: "Here lies the last and greatest of the world's Republics." When flourishing in a noonday blaze of glory, after having rooted up or cast down everything that kept it from the eyes and admiration of the world, it began to lose the beauty it had. The storms of ambition and anarchy beat its great boughs and branches one against another; its leaves fell off, its limbs withered, and a rabble of Copperheads and traitors, and foreign potentates, rushed into the field and cut it down. Oh! eloquent, just and mighty death! whom none could advise, thou hast persuaded; what none had dared, thou hast done; whom the world flattered, thou alone hast cast out of the world, and

despised. Thou hast drawn together all the far-stretched greatness, the pride, cruelty, ambition and madness of man, and covered over all with these narrow words—*Hic Jacet.*

But if better counsels shall prevail, if we shall expel this fierce spirit from our midst, if we shall preserve the power and majesty of a united and patriotic people, adhering steadfastly to the high, original purpose, and keeping straight on in that serene light of honor, of virtue, and wisdom which is reflected from the Godhead upon all great and just terrestrial Government, then may we realize that grand and sublime destiny which was prefigured in the Miltonic vision. And methinks I see in my mind a noble and puissant nation, rousing herself like a strong man after sleep, and shaking her invincible locks. Methinks I see her as an eagle, renewing her mighty youth, and kindling her undazzled eyes at the full mid-day beam, purging and unscaling her long abused sight at the fountain itself of heavenly radiance, while the whole noise of timorous and flocking birds, with those also that love the twilight, flutter about amazed at what she means. (Great cheering and applause, and three cheers for Edgerton.)





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# SPEECH

— OF —

## HON. M. M. ESTEE,

Delivered at Platt's Hall, San Francisco,

August 3d, 1875.

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People's Independent Party.

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**STATE TICKET,**  
**People's Independent Party.**

Election, Wednesday, September 1st, 1875.

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For Governor.....	JOHN BIDWELL.
	OF BUTTE.
For Lt. Governor.....	ROMUALDO PACHECO.
	OF SAN LUIS OBISPO.
For Secretary of State.....	WILLIAM ROUSH,
	OF PLACER.
For Controller.....	LAUREN E. CRANE,
	OF SIERRA.
For Treasurer.....	FERDINAND BAEHR,
	OF SAN FRANCISCO.
For Attorney General.....	PETER VAN CLIEF,
	OF YUBA.
For Surveyor General.....	EDWARD TWITCHELL,
	OF SACRAMENTO.
For Clerk of Supreme Court.....	PAUL MORRILL,
	OF SACRAMENTO.

---

**FOR MEMBERS OF CONGRESS.**

1st District.....	JOHN F. SWIFT.
2d District.....	CHAS. A. TUTTLE.
3d District.....	CHAS. F. REED.
4th District.....	J. S. THOMPSON.

Judicial Election, October 20th, 1875.

For Supt. of Public Instruction.....	J. M. GUINN,
	OF LOS ANGELES.

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**Headquarters State Central Committee,**  
**PEOPLE'S INDEPENDENT PARTY,**

No. 34 Kearny Street, San Francisco.

SAMUEL COWLES, Chairman.

J. M. CURRIER, Secretary.

# HON. M. M. ESTEE'S SPEECH.

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MR. PRESIDENT, LADIES AND GENTLEMEN :

The Independent Party seeks to obtain two great objects in this campaign.

I. Individual independence in politics.

II. Protection and reform.

What is individual independence in politics? we are asked.

It is the will to do what is right regardless of parties, corporations or rings.

It is freedom of action on all questions affecting the public weal.

It is the privilege of rebellion against King Caucus and his venal court of professional politicians—the refusal to eat crow at the bidding of anybody's convention.

Without it a party is a mere machine run by one engineer and controlled by one mind.

The old rule that every man must swallow the nomination of his party convention without hesitation or thought of resistance, works evil in all directions.

It corrupts the individual voter, because it throws all the responsibility of selection on the convention that nominates, rather than on the citizens who votes.

It corrupts the office holder, for it makes him the abject slave of the men who control conventions, rather than an honest and manly servant of the people, whose work he does and whose pay he receives.

And finally, it corrupts the conventions themselves, because it relieves them from the necessity of examining carefully into a man's character and record and qualifications before they submit his name to the people, and leads them to consider the public offices as so many articles of plunder to be parceled out among themselves according as each can make his bargains.

The Independent Party claims then that this system has been tried and found wanting, and that it is time the old rule should give place to a new and better one.

Every man belongs to the Independent Party who believes that conventions should be judged like everybody else—according to the work they do. If they make good nominations then the people will sustain them. If they don't, then nobody is bound to vote their ticket. You need not have any fear about the nominations when this rule prevails. You need not be afraid that bad men will seek to be the candidates of a party which expressly reserves to each and all of its members the right to reject any nomination which is not satisfactory.



I know very well that there are many good men who have *always* exercised this right, who have always picked their men out of both tickets, but there are some men who seem to think that all the Republicans are branded R, and all the Democrats are branded D, and that it is treason to mingle the brands. As a consequence there is many an honest man, who, although he voted right and for the man whom he sincerely believed to be the best of the two, would have been ashamed to let people know that he had not cast his ticket straight.

No man is an independent voter who permits another to do his thinking for him, for the man who thinks for him necessarily votes for him.

Nor does a man deserve to be free who stands silent while the people are being plundered, even though the plundering is done by his own party or his own friends.

Nor is a man an independent voter when he maintains that party rule is superior to the peoples' rule; for the people can never be unjust to themselves, but parties are often unjust to the people.

It follows therefore that without independence in politics it is impossible to secure protection to the people or obtain an honest reform of existing abuses.

The existing evils are as varied as are the affairs of man. I am free to admit that all human governments are imperfect, and that men make mistakes in the public service as they do in their own private business. But what the People's Independent Party demands is *First*, that the principles of our public officers shall be right on all great questions now disturbing the public mind, and *Second*, that they shall give as much attention to the public business as they give to their own private business for the same compensation.

The wrongs we complain of fellow citizens are both local and national. Like poisoned blood in the human system that scatters disease through every fibre of the body, so the corruption that now clings to the body politic reaches wherever an officer can be found and a tax-payer can be hunted down. No place is so isolated or remote but is a sufferer, no community so pure but the contaminating influence of the hour seeks it out.

The proof of this wide spread corruption comes to us from all points of the compass; the cases are neither few in number nor insignificant in importance. They commence with the janitors in our school department and rise in regular gradation until they reach the highest legislative body in the nation if not in the world, the Congress of the United States.

The great danger is that we have become so intimate with our own wrongs, so familiar with our own grievances, that it seems hopeless to redress them and idle to complain of them. If any warning voice is raised, if any man dares to call the attention of the people to these scandalous and growing evils, he is met by honeyed words and plausible excuses—the ready weapons of deceit and cajolery.

If we speak of the Credit Mobilier frauds by which millions of dollars were stolen from the public treasury, we are answered that Republicans and Democrats alike were involved in that iniquity. That it is now a stale and thread-bare subject and its shameful presence has passed into the shades of

history. If we call attention to the case of Sheppard and his gang of public robbers who for years have debauched the capital of this great nation with their open and continued plundering of the public treasury, we are assured that he and his associates always have maintained the confidence of the President of the United States, as well as others of the distinguished men of the nation, and that the amount stolen was insignificant among so many—only five or six millions of dollars having been taken.

If we call attention to measures like the Pacific Mail subsidy, where three-quarters of a million of dollars was distributed *about*, if not within the halls of Congress, we meet the excuse that it was paid to the agents of Congressmen, but that it never reached the pockets of the principals, and that just before election these tales should be smothered; that these ghostly shapes cannot and shall not be the accusers of living men.

Look where we may an excuse is always found for even admitted wrongs.

We know it is human to err, yet open or covert robbery does not deserve, and with our aid shall not receive the peoples' sanction. We make no war upon individuals except when individuals stand between the people and good government. We would not circumscribe the influence of any man when engaged in just and lawful enterprises nor limit nor hamper the use of capital. We would not punish wealth nor indeed reward poverty, except to give to every man an even start on the journey of life. We recognize that it is no duty of wise statesmanship to punish any man on account of the business he follows—be he a railroad president or a scavenger.

Yet a wrong is no less a wrong if committed by either.

Fellow citizens, I will now call your attention to what I deem one of the greatest evils that encumber this young and growing State. I refer to the *monopoly of the waters of the state*. And *First*, I hold the State has no more right to part with her ownership and control of the waters of the State than to sell her school houses and public roads. *Second*, That Congress has given to the state control of all these waters except the navigable streams, and that the state should forever retain the right to regulate their price and use.

By an Act of Congress approved July 26th, 1866, it is provided, "That whenever by priority of possession, rights to the use of water for mining, agricultural, manufacturing or other purposes have vested and accrued, and the same are recognized and acknowledged by the local customs, laws and decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same."

This law has recently been affirmed and interpreted by the Supreme Court of the United States, and there is no longer any question as to its validity. I call your special attention to that point that in order to acquire any rights under this law, those rights must be recognized and acknowledged by the *local customs and laws* and by the decisions of the courts. I need not tell you that practically this amounts to giving the state and the people of the state the right to regulate the waters of the state, or at least all waters existing or flowing upon the public lands.

Hence the people of the state have the power to enact such laws as they may deem proper for the control of all the streams of the state. This is one

of the powers the state sooner or later must exercise, and the sooner it is done the better.

There is no country on the face of the globe, save possibly Peru, where water has the value that it has here. For a large part of the year so little falls from the clouds that we must rely upon the lakes and water courses which are fed by the vast deposits of snow in the mountains, not alone for mining and irrigation, but also for our actual domestic purposes.

The last Assembly, following the examples of the English in India and the Italians in Lombardy, endeavored to provide a remedy in part for the water monopolies which were and are still unjustly seeking to control the waters of the state, but the Senate, unwisely as I think, defeated the measure, and thus left the subject where it was before.

I know of no other subject which should receive more attention from lawmakers than this. What is past is beyond remedy, but the future is within your hands and within your power to control. If you do not control it by suitable legislation it will control you. If you fail to make a wise use of the opportunities within your reach you and generations to come after you must suffer.

It is the part of wisdom in a new country to make the policy of that country broad and liberal, fostering and encouraging honest labor and intelligent enterprise and protecting them from every kind of oppression or extortion.

Such a monument to your wisdom cannot fall; it will survive the change of customs, of manners and of men, and will live while the rights of the people are respected, and while civil liberty exists. But if a few men are allowed to control what of right belongs to all, a brake will be placed upon the wheels of progress that no future efforts can remove. Imagine, for instance, a man's posting a notice on a rock upon the shore of Lake Tahoe, as follows:

“NOTICE.

“Notice is hereby given that I have this day taken up Lake Tahoe with all its waters, inlets, outlets, fishes and other material substances round about it, including the rocks and cañons that skirt its banks.

“This right like all other freehold estates extends from the sky to the center of the earth. Therefore all persons are prohibited from looking at the “wild mountain scenery in this locality.

Signed, COL. VON SCHMIDT.

“P. S.—Will sell my rights under this notice to San Francisco for \$10,000,000.

VON SCHMIDT.”

Now, I don't know that Col. Von Schmidt would appropriate any more of the peoples' property than any one else. Nothing personal is intended in this allusion. What I claim is that no person should have any such power. Or suppose in like manner a similar notice is posted claiming Tulare Lake, that covers over 400 square miles, or that some one puts up a dam across Cache Creek, the outlet of Clear Lake, and thereby becomes the owner of all the waters of that great lake.



I would respect vested rights, but there is no law, there never has been a law, that would give to one citizen the title to vast bodies of water as against a whole community, by the mere right of discovery, or by any other right known to civilized government.

If these people own these waters, they own the fish that swim in them, and the birds that fly above them. They own everything in the sky above, the earth beneath, and the waters under the earth. Even the right to look upon the beautiful mountain scenery around and above them is their exclusive privilege, and the great paintings which mirror that scenery to an admiring world must pay them tribute. The deep blue of the sky and the fleecy white of the clouds are theirs alone to enjoy. I should think the moon would fear to shine upon their waters, lest a pre-emption notice be pasted on its reflected disk.

#### TAXATION OF RAILROADS.

Another just complaint made by the people arises from the persistent effort of the Central Pacific and other railroad companies in this state to avoid their just share of taxation. They claim:

1. That their road-beds should be valued at the same rate as adjoining lands of a like quality, without any regard to the cost of adapting it to railroad purposes.

2. That the ties and rails must be taxed at their value as old material, without any regard to their use in the superstructure.

3. That they should pay no taxes on the lands granted to them by Congress, although that land is now no part of the public domain, and is no open to settlement.

In discussing the first and second of these propositions, no stronger argument can be made to show their utter fallacy than that found in the recent able opinion of Judge Beatty of the Supreme Court of the State of Nevada, in the case of *The State of Nevada vs. The Central Pacific Railroad Company*. After discussing at length these points made by the railroad company, the distinguished Judge says: "To be quite consistent with itself, this theory should go a step further. If the value of a railroad is to be estimated without any reference to its utility as such, then the land should be valued at something less than adjoining land of the same natural quality, on account of the cuts, fills, etc., by which it is disfigured and damaged for all other purposes; and the ties and rails should be estimated at the market price of old and deteriorated lumber and iron, less the cost of taking the track to pieces and getting the material to market. But, taking the theory as it is stated, how will it apply to other species of property? Upon precisely the same principles the value of a house should be estimated by adding together the values of the lumber, nail's, glass, brick, lime, paint and other marketable materials that enter into its construction, allowing nothing for the value of the skilled labor by which these materials have been combined into a structure useful and beautiful, but deducting the depreciation of their market value on account of the use they have been put to.

"As its value must be ascertained without reference to its utility, a house which yields a large net income on the entire cost of its construction, must

be assessed at precisely the same amount as a similarly-constructed house, containing materials of the same value, standing in some deserted mining-camp, where it can never be expected to have a tenant, and is of no use except to be torn down and sold as old and damaged material. If these are not just principles when applied to the valuation of houses, they are not just when applied to the valuation of railroads, and if houses are in fact valued on totally different principles, it is not just to the owners of houses, and is opposed no less to the letter than the spirit of the constitution to adopt the theory contended for in the valuation of railroads."

The point here made is that railroad property shall be valued for the purpose of taxation, exactly like other property belonging to other persons, namely: at its actual cash value; that railroads shall be treated just like other persons in the community. Any other rule would be subversive of the liberties of the people, and contrary to the plainest principles of common fairness.

I do not believe—I cannot believe that this is unjust to them. I know it is justice to us. The war against them, as they term it, shall be continued through victory and defeat, until they are willing to admit and do admit their rights and ours are equal before the law. No "ways that are dark and tricks that are vain," no promises of favors to be received, will move us from the rock of principle upon which we have taken our stand. Our cause is abiding and can laugh criticism to scorn. We ask for no favors; we seek but for justice, and though it be slow in coming, it is as sure to come as that day-time will succeed the night.

Again, the railroad companies pay no taxes on the lands granted to them by Congress.

This land lies in odd sections, adjoining sections of what is or has been public land.

The Constitution of California prescribes that "Taxation shall be equal "and uniform throughout the State. All property in this State shall be taxed "in proportion to its value, to be ascertained as directed by law."

Under the Act of Congress admitting California into the Union, it is prescribed that "California shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of the same, shall be injured or questioned, and that they shall never lay any tax or assessment of any description whatever upon the public domain of the United States."

It will thus be seen that two propositions are clear:

1. Public land cannot be taxed.
2. All other property in the State must be taxed.

Are the railroad grants now public lands? If so, then we cannot tax them. If not, then we ought to tax them. The railroad people do not pretend that the grants made to them are now a part of the public domain. If any person entertains a doubt on the subject, let him attempt to settle on one of their sections, or cut timber from it, and he will soon have his doubts removed. Indeed, the companies have conveyed most of these vast grants to trustees, and have borrowed ten million dollars on some of these very lands by issuing

land grant bonds, and yet while they can borrow money on the grants in vast sums, they claim not to own the land until it is actually listed and patented to them. I admit that most of these lands have not been so listed and patented, and they probably never will be until the companies themselves demand it, which it is safe to assume they will not do, if by so doing they will have to pay taxes on them.

The companies say further that much of the land is worthless. We ask only that like every other man's land it shall be taxed at what it is worth. Nor is the claim that they have no patent a fair or legal excuse for not paying these taxes, because every pre-emptor or homestead claimant has to pay taxes on his possessions before he gets his patent.

These railroad grants, which in this State alone amount to an empire, yield no taxes. They are absolutely exempt from the ordinary burdens placed by the State upon all other property.

The tax alone on the value of their mortgage bonds placed upon only a portion of this land, at \$2 on the \$100, State and county, would be \$200,000 per annum.

But they answer that this land brings no income. Why, no land in the State affords an income, except where labor is expended on it.

Here is a map, a true copy of one made by the Secretary of the Interior, showing the railroad lands of this State, except the little sold by them. Every other section, in all these munificent grants, is free from taxation.

The grant to the Southern Pacific R. R. Co. in California is 516 miles long by 40 miles wide, with 10 miles more on the outside, reserved as indemnity for what they may lose inside.

This grant includes only every other section, but it amounts to 13,209,600 acres, upon which they pay no taxes. The reservation to the Atlantic & Pacific (the St. Louis) Railroad in this State is five hundred and seventy-six miles long and forty miles in width. Unless Congress allows them to float a part of the grant elsewhere, nearly one hundred miles will be lost to them, for it laps over on the Pacific Ocean and upon the grant to the Southern Pacific Railroad. Not a rail is laid on this road in this State.

The fact is, there is not land enough between the mountains and sea to supply these railroads. Our territory, vast as it is, is yet too limited to give what Congress has already granted them. Either the sea must be made to recede or the mountains sink into the plains, or our territory by some providential interference be enlarged, else these poor railroad people shall be cheated of their rights.

The original grant to this St. Louis road was made to the nearest point on the Pacific ocean, yet the Department at Washington have reserved and kept from settlement all the land from San Buenaventura to this city, which act is without even the color of law, and is a deliberate fraud upon the public. This land grant in this State, allowing for the deductions, amounts to nearly 10,000,000 acres.

The Western Pacific Railroad Company received 500,000 acres of public land, more or less.

The Central Pacific Railroad Company received in this State a million or more acres.

Tom Scott's railroad reservation in San Diego county is 150 miles long by 40 miles wide.

The reservation for a road from Los Angeles to Fort Yuma is another large tract.



Not an acre of these vast grants bears one dollar of the burthen of taxation. The people demand that this wrong shall be remedied. There is no reason—there can be none; there is no justice—there can be none in making the man who owns one hundred and sixty acres of land pay taxes on it, while the four or five men who own millions upon millions of acres shall go free. It does not make any difference whether patents have been actually issued or not. Nor does it matter what name the companies choose to give to their interest in this land; whatsoever that interest is, it is *property*. The owner of a Spanish Grant pays taxes upon all the land he claims, even although his grant has not been confirmed by the United States, or his title perfected; the squatter pays taxes on his possessing title to one hundred and sixty acres of farming land, and the miner pays taxes on his possessing title to a placer or ledge claim. Neither of them has the United States title and it is quite possible that neither may ever secure it. But all are compelled to pay taxes on whatever interest they do own and on their behalf I ask why should the railroad companies be exempt?

This, in my judgment, is the greatest burthen our people now have to bear. We have seen that the Constitution prescribes that all property within the State shall be taxed, and yet here are vast tracts of land, and upon portions of which large sums have been borrowed, which pay no taxes.

Yet this is called a free country, where all men are said to be equal before the law.

The only remedy for this is through Congress. True, we cannot tax public lands, but these ceased to be public lands when the grants were made. These companies own the land as much as they own the iron tracks or rolling stock.

I do not say other men would not avoid taxation if they had the power to do so. It is the *power* I object to.

#### CHEAP TRANSPORTATION.

No question affects in a greater degree the material interests of the community than that of cheap transportation. By cheap transportation I mean a just price for transportation. On the high seas this is always obtainable. The mighty deep is and forever will be a highway for all. No wall can be built around it. No iron-way can cross it. No combination of capital can monopolize it. As trackless as the air, and as free as the sunlight, like God's limitless bounty, all may enjoy it. On land the subject is yet a problem. The great rivers and vast inland waters afford a partial remedy, but not a complete one, even where these exist.

For a time, and during the early days of the republic, ordinary public roads were the sole avenues of travel and transportation. Now these have been superseded by railroads and have fallen into disuse. Formerly, all highways of commerce were public and common to all. Now, private enterprise and private capital, or public capital in private hands, have almost exclusive control of all the means of transportation in the country.

The interests of the railroads and the public are so large, varied and antagonistic that the wonder is, not that it is a subject of great concern to the

people, but rather that it is not the chief subject of interest. For a time, and in many States of the Union, canals were constructed at vast expense to meet the ever-growing wants of transportation; and in many localities they are a check upon the accumulating aggressions of railroads. But these great freight highways are too slow for the age and the people. Time means money to producers as well as to merchants, and people are willing to pay a fair price for the difference. To illustrate: In 1873 the gross receipts of the Erie canal were \$3,029,000, while the gross receipts of the New York Central Railroad (including the Hudson River Railroad), built upon the same line, were \$29,126,000.

All thoughtful persons now recognise railroads as a necessity, without which the business of the country would stop, and nearly every citizen pays tribute to them.

Such a thing as competition on long lines of road is next to impossible; on short lines it is uncertain. The only remedy then for the people is the right of the *people in their Legislative capacity to regulate freights and fares*. This right has always been exercised over bridges and toll-roads, and with vastly greater reason it ought to be exercised over railways, which in most cases are built by the people's money and for the people's use.

It is claimed that the question is so complicated that no just law can be enacted on the subject. There can be no question as to the justness of regulating *fares* by law. As to *freights*, why cannot an experienced and wise Legislature as well make a schedule of frights by law as a Board of Railroad Directors make it by resolution? The agents and employees have to recognize the schedule of freights fixed by the Board of Directors as their law, and this schedule is no less certain than would be an Act of the Legislature on the same subject.

"But," say the railroad men, "you have no right to regulate our freights and fares. These railroads are our private property; you must not interfere with our vested rights. We expended our capital, our time, our labor and our enterprise in building them, and now they belong to us by the sacred right of property. By the same right which secures to each of you whatever you have honestly acquired. We may do what we please with our own. We may charge what we please, and no human being has the right to object. If you do object to our charges you have an easy remedy—you need not ride on our cars. If you do not like our prices, you need not buy what we have to sell. Your Legislature has no more right to dictate rates of freight and fare to us than it has to establish a price for any other commodity which is bought and sold. If you undertake to regulate prices at all, regulate them for everybody and for everything. Tell the farmer how much he shall have for his grain, the shoemaker how much he shall have for a pair of boots or shoes, the mechanic how much he shall have for his labor, but do not single us out and compel us to be contented with what you are willing to pay, while we are compelled to pay whatever you may choose to charge."

I have tried to state this argument fairly, because it is the only really important argument that has been thus far advanced on the other side. At first

glance it seems almost conclusive against us, and a great many good men have been led by it to think that however desirable it might be to regulate railroad freights and fares, nevertheless we have no lawful or equitable right to do so.

Certainly there would be neither justice nor policy in passing laws to regulate the prices at which men shall sell their wares, or the wages which they shall receive for their labor. It is admitted by all that we may safely leave these matters to the great natural laws of supply and demand. Why then should we claim the right to regulate the prices which a railroad shall receive for what it has to sell, when we admit that we have no such right in these other cases?

I believe there is a complete and satisfactory answer to this question, and I respectfully ask your attention while I endeavor to point it out.

Suppose that one of you being a merchant or mechanic, wishes to start in business in San Francisco, what does he do?

Take a shoemaker for example: first he seeks out a location which he thinks suitable for his business, and then he goes to the owner of the property and tries to buy or lease it. If he is willing to pay what the property owner chooses to ask, a bargain is easily made; but suppose the property owner refuses to sell or to lease his land, or that he demands a price far above what the premises are reasonably worth, what then? Why, the shoemaker must go somewhere else, that is all. He can't say to the property owner, "Here, sir, I will take your property whether you will or not, and I will pay you so much money for it; that is all I think your property reasonably worth. If you are not satisfied with that amount, I will take this matter into court and have arbitrators settle upon the price which I shall pay you."

We all know that the shoemaker has no such right. There is no law giving him any such privilege. If the property owner don't wish to sell, there is no power on earth which can make him sell, and if he charges too high a price, there is no law and no court which can compel him to reduce it. And after the shoemaker has secured his location and opened his shop he cannot go to the leather dealer and say, "I want so much leather of such and such a quality. I will take it whether you wish to sell it or not, and I offer you what I think a fair price for it, and if you are not satisfied I shall take it anyhow, and the courts shall settle how much I ought to pay you."

No, if he wants leather he must pay whatever price is demanded for it. The law will not interfere between buyer and seller, nor will it compel any man to part with his property unless he chooses to do so.

And the shoemaker in this case is protected just as much as the property owner. After he has made his boots and shoes he need not sell them if he doesn't want to.

He can keep his wares or burn them, or bury them if he chooses. And if he does choose to sell them he can ask any price he pleases to ask for them, and he need not sell unless his customer pays the price demanded.

Throughout this whole business then, the parties act from their own free and voluntary wills. They sell, or refuse to sell, just as they please, and



pay, or refuse to pay, just as they choose. No law intervenes between them. No power of the State is invoked to compel a sale, or settle upon the sum to be paid.

But now suppose there was a law by which a shoemaker was authorized and entitled to seize and occupy any location which he could show was suitable for his business of making boots and shoes, and that the law provided that he need not pay any more for such property than it was reasonably worth, and that he had the further right to go to the leather merchant and take such leather as he needed, paying a reasonable price for that, and in case the property owner or the leather merchant was dissatisfied and refused to give up their property, then the shoemaker could bring them into court, and compel them to give up their property even against their will, upon his paying a fair compensation. Of course we all know that such a law would be oppressive and unjust.

But suppose we had such a law, and the shoemaker had all these rights and privileges, and then the Legislature should say, "Now, Mr. Shoemaker, "having protected and fostered your rights so that nobody can impose upon "you, we propose to pass a law fixing the prices at which you shall sell boots "and shoes, so that you may not impose upon anybody else."

Now I ask you in all honesty and candor, would the shoemaker have a right to complain? Do you think that under the circumstances, as I have stated them, such a law would interfere with his vested rights?

*I propose to show that this is precisely the position which the railroad corporations occupy, and that they have no right to complain, either.*

But for the special rights and privileges with which the Legislature has protected and fostered them, they never could have built ten (10) miles of railroad.

Let us see if they could. For the sake of a convenient example, we will suppose that Mr. Stanford has a large ranch somewhere near San Mateo, and that he wants to build a railroad from that ranch to San Francisco.

Now there is not a doubt in the world that Mr. Stanford can build as many railroads on his own ranch and within the limits of his own property, as he may choose to build, without asking leave of any human being. He can cover his own ranch all over with railroads, if it pleases him to do so, and if anybody wants to ride on one of these roads, and he don't choose to let him he can either keep him off altogether, or if he does consent to carry him, he can make the rate of fare whatever he chooses to make it, and he can make one price for one man and a higher price for another man, if it pleases him to do so.

As long as he keeps within the limits of his own property, he can do just as he chooses, and nobody has a right to object. The argument of the railroad men which I have undertaken to answer, is entirely correct when it is applied to a private railroad built on private property for private purposes.

But after Mr. Stanford has built his railroad across his own ranch, suppose he should go to his neighbor, John Smith, and say: "Mr. Smith, I want to "continue my railroad to San Francisco, and it will be necessary to cross "your land to do so. Now I want you to let me have the right of way across

'your property, and also the right to take such materials as I may require in "the way of timber, dirt, stone, etc., from your land, and I will pay you "whatever this privilege is reasonably worth."

Suppose Mr. Smith should say, "Mr. Stanford, I don't want any railroad "on my land. I refuse to let you run your railroad across it, nor shall you "take any timber, stone or other building materials from my property."

Now what becomes of Mr. Stanford's railroad? It is blocked. He cannot run it one foot upon his neighbor's ground without that neighbor's permission. The moment he undertakes to do so he becomes a trespasser, and may be driven off, with force, if necessary. We may imagine him looking about for some means to help him out of this dilemma—some power which will compel his obdurate neighbor to permit him to pass over his land. At last he finds it—finds the only power which can enable him to take his neighbor's land against that neighbor's will.

If you look at Sec. 1,237 of the Code of Civil Procedure of this State, you will find this power described as follows: "*Eminent domain is the right "of the people or Government to take private property for public use.*"

Here then is *power* enough, if it can only be applied.

All rights of private property sink into insignificance before the sovereign right of the State to take whatever it may deem necessary to the public welfare.

It may seize our houses and turn them into fortifications; it may cut down our forests, destroy our fields, confiscate our goods. It is a power which, when exercised for the public benefit, may be truly said to have no limit. It rests upon the sacred right of self-preservation; upon the necessity of government; upon the principle that the rights of the few must sometimes be sacrificed for the benefit of the many.

It is true that the property owner must be compensated for whatever is taken from him, but that compensation is measured not by the price which the owner has placed upon it, and without which he is unwilling to part with it, but by what appraisers may consider a reasonable charge.

Once, this right of eminent domain was the highest prerogative of the sovereign—the most powerful weapon of despotism. When the King said, "The State! I am the State," and by virtue of that claim seized and appropriated to his own use whatever his eye coveted, or his whim desired, then we saw the right of eminent domain, as it was exercised by tyranny. One of the first steps in the reformation and improvement of governments was to take this high privilege from the sovereign and place it in the hands of the people or their representatives.

This was one of the great privileges secured by *Magna Charta*, and it is one of the fundamental principles of our republican government.

I read again from the Code: "*Eminent domain is the right of the people or the Government to take private property for public use.*"

Thank God! Now, and in this country, only the people, or the government of the people, have the right and power to take private property, and then only for a public use.

How, then, does Mr. Stanford make use of this power in his little railroad scheme. Very simply. He comes forward and says in effect, if not in words, "I will make my private road a public highway, and I will devote it to the public use."

Only in this way, and upon this basis, is he entitled to have the State's right of eminent domain exercised in favor of the railroad. Mr. Stanford, alone and unassisted, could not, as I have already shown, carry his railroad one foot across his neighbor's land. He could not disturb one blade of grass upon that neighbor's field.

But if this railroad is a public use, then the State can take whatever land and whomsoever's land it may find necessary for the purpose, and need pay for it only what the courts may deem its reasonable value.

The process is very simple and easy. A company is incorporated under the general railroad law, and under this law they proceed to build their road under the protection of the State. The effect of this law is that the Legislature declares and Mr. Stanford admits that his railroad is a public use, and therefore the government authorizes the exercise of the State's right of *eminent domain* in its favor.

And now comes Mr. Stanford to John Smith and says: "You *must* let me build my road across your land. You *must* let me take from your property whatever stone, gravel or other materials I may require; for I come no longer as Leland Stanford, building a private railroad for my private use. I come in the name of the State of California, and I am building a public highway for the public use." There is no more trouble about prices. If John Smith is not satisfied with the price which Stanford chooses to offer, then Mr. Stanford takes him into court and has the amount determined there. The railroad company is not only authorized to take whatever land it needs, but it is also protected against paying anything more than a fair price for what it does take.

But if the Legislature had the power to compel the people to make reasonable prices to the railroad company, why has it not got the power to compel the railroad company to make reasonable prices to the public. Why cannot the public goose have the same sauce as the railroad gander? When John Smith sells his land to the railroad company he is compelled to accept what the land is reasonably worth. Why should not the railroad company be compelled to accept what it is reasonably worth for carrying John Smith or his produce to market.

All we ask is that the rates of freight and fare shall be reasonable, and we don't think that the railroad company should be the sole judge as to what is reasonable. We didn't have that privilege when we sold to the company. Why should the company have it when it sells to us. We had to submit to fair prices. Now let them try it. Before I leave this branch of the subject I want to state two or three short propositions which seem to me to be as clear as truth can make them and to carry this whole matter in a nut-shell.

It naturally and inevitably follows from what we have already seen that

I. A railroad cannot be built (except of course on private property) without the exercise of the state's right of eminent domain.

II. The state's right of eminent domain cannot be exercised except for a public use.

III. When a railroad company employs the state's right of eminent domain to construct its road, it stipulates and agrees that that road shall be dedicated to the public use, and contracts and consents to accept any reasonable rules and regulations necessary to carry that use into proper and just effect. I suppose nobody would doubt that a railroad company would not have the right to make the rate of fare between this city and San Mateo one hundred dollars for each passenger. That would practically amount to forbidding the public use of that railroad. Why? Because the price is unreasonably high. But if we can prevent a railroad from charging unreasonable rates, can't we compel it to charge reasonable rates.



What is a public use then when applied to a railroad ?

It is the right of every member of the public to use a public road, even when that road was built by a private corporation, upon paying a reasonable price for the privilege.

Now that is just what the Independent party demand and all that it demands.

Nor do I stand alone in this view. The present weight of judicial authority sustains the views I have expressed.

For instance: The railroad tariff law of Iowa is an Act to establish maximum rates of charges for the transportation of freight and passengers, and classifying both.

Under this law a case has just been decided by Judge Dillon of the United States District Court for the District of Iowa.

There the questions presented were:

I. That the Act of the Legislature of Iowa is in conflict with the Constitution of the United States, because it impairs the obligations of contracts, and is a regulation of inter-state commerce.

II. That it is repugnant to the constitution of the State of Iowa in that it does not affect all railroads alike, and is not therefore of uniform operation, and

III. That it conflicts with the bill of rights.

The distinguished Judge in deciding the case said that railway corporations chartered by the State with the express or even the implied power to make contracts have a power to demand and receive compensation for their services, but this is far short of conferring upon them an exclusive power in this respect, or one beyond legislative control. A railroad in its public character is an improved highway. Its life is due to the exercise of state and national prerogative of eminent domain and taxation, and its public character is not divested by the fact that its ownership is private; that whatever powers are conferred by the Act of incorporation are subject to the implied condition that they shall not be exercised oppressively or unreasonably; that it is subject to the future exercise of the police regulations of the State, or of any other power possessed by the State in its nature legislative, which includes the power to limit the amount of charges which it shall be lawful for the railroad to take for transportation.

On our side this is not a personal contest of men fighting for their own advancement. It is a warfare inspired by the gravest reasons that ever animated a free people to engage in a peaceful revolution at the ballot-box.

The future of this commonwealth depends in a great degree on the result of your present action. All over the state the People's Independent party is hailed as the harbinger of a hopeful future. Its success or failure is in your hands.

And in the name of reform, which must come, or free government in time will be a failure, and by the light of truth which cannot die, I ask the people to defend the People's cause.

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IN SENATE.]

[NINTH SESSION.

S P E E C H

OF

HON. WILLIAM I. FERGUSON,

ON

KANSAS RESOLUTIONS.

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## S P E E C H

OF HON. WM. I. FERGUSON, (DELIVERED MARCH 12<sup>TH</sup>, IN THE  
SENATE OF CALIFORNIA,) IN OPPOSITION TO THE RES-  
OLUTIONS ENDORSING THE COURSE OF THE FEDERAL  
ADMINISTRATION ON THE KANSAS QUESTION.

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[As phonographically reported in the Sacramento Union.]

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MR. FERGUSON.—*Mr. President* : When I had the honor, some weeks ago, of introducing concurrent resolutions on the subject now before the Senate, I cherished the hope that the Senate would at an early day take some definite action on the subject. It will be remembered that, at the same time, and touching the same subject, resolutions were introduced by the senator from Trinity, [Mr. Burch.] The resolutions were made the special order for an early day thereafter, in order—as urged at the time—to give every senator, who felt so disposed, an opportunity to be present, to participate in their discussion, and to place his name upon the record in regard to the doctrines and principles which they enunciated. But it is fresh in the recollection of the Senate, that when that day arrived—that, too, before twelve o'clock, the hour for which the special order was fixed—contrary to all justice, to all parliamentary usage, and to parliamentary propriety, the Senate then, on the motion of perhaps the most promising young statesman upon this floor, the senator from Placer, [Mr. Anderson,] sustained the previous question, gagged the minority, stifled debate, and postponed the resolutions until the twenty-seventh of this month. The wisdom of the policy which dictated such a course then, and an opposite course now, sir, it is difficult to understand. It was urged then, as a reason for postponing the resolutions, that their passage, or that any action on the part of the Legislature, in relation to the admission of Kansas under the Lecompton constitution, could result in no particular good. It was urged that Congress would finally settle

this question before any action on the part of our Legislature could possibly reach Washington.

Now, sir, it seems to me that senators who voted for that proposition then—the proposition to postpone to the twenty-seventh of this month—which was intended, and would have the effect of an indefinite postponement, and who are now willing to pass these resolutions, (if they are passed,) stultify themselves, and are guilty of a most gross inconsistency. Kansas affairs have assumed no new aspect since then. Two or three steamers have arrived and departed since then, and, by the latest advices, the Kansas question is no nearer a settlement; it continues to be the exciting and absorbing topic in the halls of Congress, and throughout the Eastern States. As a matter of common sense, I would suggest whether, so far as any practical action is concerned—so far as any practical result obtained is concerned—I would ask whether, if this Senate and the Legislature had acted upon the matter three or four weeks prior to this time, whether it would not be likely to result in more practical good than now; when this matter will, in all probability, have been definitely settled by Congress before these resolutions can reach Washington? But it was said, “Let us wait for the next steamer.” “Let us see what news the arrival of the next steamer will bring us. We will then be better prepared for action.” Well, sir, the next, and the next, and *the next* steamer has arrived. Have they furnished any intelligence further than the fact, that the people of Kansas, by a majority of over ten thousand votes, certified to by Governor Denver, have declared against the Leecompton iniquity? [Applause in the lobbies.] If they have, sir, I have been unable to obtain it. It does look singular, sir—a little so, at least—that senators who were unwilling to act upon it then—who roared as gently as sucking doves, [a laugh,] are now as brave as lions, and are eager for the fray!

At that time, sir, when the question of Kansas was rocking the Union from base to apex, and from centre to circumference, by its agitation—when the press was speaking out everywhere—when the Legislatures of other states were instructing their senators how to go, and the great statesmen of the country were arraying themselves on either side in the council halls of the nation—at such a time, sir, it was reserved for the wisdom of a California Legislature to discover the necessity of waiting for the next steamer. [Applause and laughter.] I was more especially surprised, sir, at the course pursued by my friend, the senator from Trinity, [Mr. Burch,] in regard to that action. He introduced certain resolutions, similar in import to those of the Assembly, which are now before us, and voted for their postponement until the twenty-seventh of this month!—his own resolutions!! He voted in order that they might lie over until the twenty-seventh of this month, which would be virtually sending them to the tomb of the Capulets—to sleep the sleep that knows no waking. I suppose, however, it is sufficient consolation for him that the sting of the death of those resolutions will be swallowed up in the victory of these. I am gratified to know that he, even now, is willing to show his hand—to enlighten the Senate with his well known knowledge and ability, of the popular policy—for there is a popular policy—upon that subject. Instead, therefore, of indulging in any vain regrets for the past, instead of crying after “spilled milk,” I trust we will all rejoice—I, for one, certainly do—that the day of backing and filling is over, and that the Micawber policy of waiting for something to turn up by the next steamer, has at last been abandoned.

Now, sir, I desire, before proceeding into the argument of this resolu-

tion, to allude to one fact which is currently harped upon throughout the community. Certain interested parties—certain cliques of politicians, whose acute scent of spoils enables them to smell the pap-spoon afar off, say that that portion of the Democracy who are opposed to the Lecompton constitution, as it is usually called, are acting with what I term the Black Republicans. I wish to say here, that, so far as I am concerned, in opposing the Lecompton constitution, which I believe was “brought forth in sin and conceived in iniquity,” I only do that which every Democrat, individually, and the party, are bound by every obligation of good faith and political honor, before the country, to sustain. So far as the Republicans are concerned, if they choose to come in and support the doctrine of popular sovereignty to which the national Democracy pledged themselves at the last presidential election—if they choose to come up to our standard, they are entitled to do so. They may vote as they please. It is the birthright of every American citizen. Should they vote against the adoption of this resolution, and to endorse the doctrine of popular sovereignty, which they violently opposed at the last election, perhaps it would only be another exemplification of the principle, that some good may come out of Nazareth. [Laughter.] The fundamental principles of their platform, at the last election, was opposition to the repeal of the Missouri Compromise. They denounced the doctrine of popular sovereignty. They urged against it, that Congress had the right, and that it was her duty and her privilege to legislate in regard to territories, and to exclude slavery from them. It was upon that issue they went into the contest. They contended, then, that no state or territory should be admitted in as a state of the Union, unless she came in as a free state; and that all ought to be rejected unless the slavery clause was excluded. Now, if they choose to come out and advocate the doctrine of popular sovereignty, so far so good; we have no objection to it. But I venture to say that their support of the doctrine of popular sovereignty now, is not because of their love of the principle which it establishes. Should it be so, however, I venture to say, that never did the Jews of old look with more surprise upon the resurrected Lazarus, than would the whole country behold the change in the Republican party.

MR. GRANT [in his seat].—There is no change. [Laughter.]

MR. FERGUSON.—I would state further, in connection with them, that, so far as the effects upon Kansas are concerned; so far as the action of these emissaries of abolition societies in New England—agitators sent out into Kansas with Sharp’s rifles and Beecher’s bibles—are concerned, there is no one deprecates their action more than the Democracy who are opposed to the Lecompton constitution. Now, I come to the discussion of this question—the resolutions now before us. In the first place, let me remark—what I understand will not be disputed—that we all approve and advocate the doctrine of popular sovereignty. That, no one will gainsay. Those who support and those who oppose the resolutions—all gentlemen, in their action upon the subject—support and sustain the doctrine of popular sovereignty. So far as that doctrine is concerned, then, there is no disagreement between us. It was by virtue of it, and by its adoption, that the Democratic party in the last presidential contest obtained a triumph which, if it has been equaled, has never been surpassed in the political history of the country. It was engraven at the head of every Democratic flag borne aloft over the heads of the invincible Democracy in that glorious contest; it stood at the head of their principles; it was the theme of their oratory, and everywhere it was regarded as the political idol of the entire party, North, South, East, and



West. That doctrine the Democratic party had garnered up in its heart, and by virtue of it they triumphed. Now, sir, we can take no backward step; we must onward,

“Like to the Pontic Sea,  
Whose icy current and compulsive course  
Knows no retiring ebb, but keeps due on  
To the Propontic and the Hellespont.”

Now, sir, if it shall turn out in the investigation of this question, that the doctrine contained in this resolution is a violation of the doctrine of popular sovereignty, then, sir, no Democrat who is in favor of James Buchanan can consistently support this resolution; because, in the last presidential campaign, upon the stump, it was urged everywhere that if a man emigrated from Maine or Georgia to become a pioneer in the untrodden wilds of the territories, there was no rhyme or reason why the right of suffrage should be taken away from him.

Now, what are the facts in regard to this Lecompton constitution? What I understand the doctrine of popular sovereignty to be, is this: that the people have a right, in their own way, to settle their domestic questions—the people of a territory. That I understand to be the question. Have the people of Kansas had that right, and have they been permitted to exercise it? I know that those who support that resolution say that the people of Kansas have in their own way declared in favor of that convention! We, upon the other hand, say they have not. There is where we differ. The principle that they have a right to do so, no one disputes. But, upon the application of the facts, or the investigation of the facts, rather, of how that principle has been carried out, the conclusion at which we arrive is entirely different.

Now, sir, I am aware that it is contended that Congress is bound by the record of that convention, to admit Kansas under the Lecompton constitution; that they cannot go beyond it; that the conclusion is inevitable; that this is right because it was passed by a legally authorized tribunal, to wit: the Lecompton convention. Now, there is where the advocates of the Lecompton constitution, as it seems to me, fall into a great error. Congress is not like a court of law, to be bound by any record. I hold it to be an indisputable proposition, that Congress, as the supreme legislative power of the country, is bound by no rule; is restrained by no policy; is confined to no precedent; is subject to no power, other than the federal constitution. Then I hold the doctrine, in relation to the Lecompton constitution, or any other constitution to be this: that Congress has the right—she has a legal and a constitutional right—to admit or reject any territory applying for admission as a state, as she chooses. She has an absolute and unquestionable right, and it is a matter entirely in the discretion of Congress. Then the question comes up, if she has this constitutional right, how should she exercise it? I hold, sir, that the Democratic doctrine is, that it is the duty of Congress, if she believes that the constitution proposed is acceptable to a majority of the people of the territory proposed to be admitted, it is the duty of Congress then, provided the constitution is republican in form, and not in violation of the constitution of the United States—it is the duty of Congress then to admit such territory. But if she believes the constitution is obnoxious to a majority of the people of the proposed state, it is her duty to reject the application for admission into the Union. When we come to decide the question, as to whether the people have decided in favor of the Lecompton constitution, Congress is not sitting as

court, to be bound by the record of the Lecompton convention, and unauthorized to go behind it. Congress was not a party to that convention. Congress is called upon to do an affirmative act, wholly unconnected with and entirely unrestrained and uncontrolled by the action of the Lecompton convention or any other convention assembled in Kansas. But, sir, before I go into the discussion of the question of fact, allow me to state the presumption, that Congress is sitting as a jury upon the issue of fact. The question to be decided is, whether the constitution is acceptable to the people, or not. There are no rules of evidence, such as would be applicable to and binding upon a court, which could bind Congress, because she is herself the law-making power. Therefore, when Congress comes to act and decide upon the question, as to whether the constitution is acceptable to the people, she is not compelled to go according to the record which that convention has made. She can go behind it. She can come to the same conclusion that a reasonable man would—and from the same chain of evidence and facts which a reasonable man would call to his aid, in order to enable him to arrive at a moral certainty of any question. She can determine whether the Lecompton constitution reflects the will of the majority of the people of Kansas or not. But it is contended that other states have come into the Union—Florida and Illinois, for instance—without first submitting their constitutions to a vote of the people; therefore, that in Kansas it is not necessary that it should be done. That might be true, so far as Illinois and Florida were concerned; but gentlemen forget one important fact in this connection. In some states it was not submitted because—

MR. BURCH [in his seat].—It was not submitted in eight of them.

MR. FERGUSON.—What is the fact? In those states where the constitutions were not submitted to a vote of the people, there were no objections to them; and I defy the gentleman [Mr. Burch], in appealing to the record, to point to a single instance where there has been anything like the agitation that there has been in Kansas as to the kind of institutions under which it should be admitted into the Union. Therefore, the cases are not analogous at all; there is no parallel between them; there is no similitude. I do not pretend to say that it is a matter of absolute necessity, under all circumstances, when a territory applies for admission as a state, that, as a condition precedent, it must first be submitted to the people. I think, however, it would be a wise rule. It is to become the fundamental law of the land; and if there is any one thing upon God's earth which the people of a territory ought to have an opportunity of casting a direct vote upon, it is that: the organic law of the land in which they live.

But, sir, I can imagine a state of affairs, where a territory comes to apply for admission into the Union, when she might properly be admitted without submitting the constitution to the people for ratification or rejection: where there might be no objection to it; where everybody was in favor of the constitution, and where no one made any fuss about it. In such a state of affairs, I would not pretend to say that it would not be the duty of Congress, under such circumstances, to admit her. But such is not the fact in regard to Kansas. We know—it is a matter of patent record in the history of the country—it is within the knowledge of every man before me—that, so far as this Kansas question is concerned, there has never been a question of a political character, from the admission of the first state into this Union up to this day, that has excited so much bitter feeling and so much hatred and animosity, not only amongst the people more immediately concerned, but between the different sections of

the Union, as has this Kansas question. Therefore, it is peculiarly proper, and absolutely necessary, in order to restore peace to that distracted country, and harmony to the Union, that its organic law be settled in accordance with the will of the majority.

There is one other significant fact connected with this question : that those very men, the eminent leaders in Congress, Jeff. Davis of Mississippi, and Mr. Mason of Virginia, who favor the admission of Kansas under the Lecompton constitution, are the very men who opposed the admission of California. And why? "Because," they said, "there was no enabling act by which the convention had a right to submit the constitution to a vote of the people, and that they had no knowledge of facts before them that would authorize them to say that a majority of the people of California preferred the constitution under which she was proposed to be admitted;" and that, sir, in the teeth of the fact that it had been submitted, and had received a very large majority of the votes of the people. There was no complaint from California upon it. But it, perhaps, suited political purposes to object to California, as it suits them to wheel round and waive the objections which they raised, but which did not exist against the admission of California, then, in favor of the admission of Kansas now.

But I have used the proposition, that this is a question of fact, which Congress, as the supreme legislative power of the country, is to decide upon, as any reasonable man would decide in regard to any other disputed question—bound, as she is, not by any precedent—by the record of any convention—by no rule, but by the oath to the constitution, which provides for the admission of new states, if Congress believes their constitutions are acceptable to a majority of the people; and that it is an equal duty to reject their application for admission, if the constitution is obnoxious to a majority of the people.

Let us proceed and see whether the proof is not overwhelming against the acceptance of that constitution by a majority of the people of Kansas. I know it will be contended, and it is one of the arguments used in favor of the passage of this resolution, that the people refused to vote. I will endeavor to state the proposition upon that side, as I have ever heard it advanced, and that is this : that here was a regularly called convention—called by the territorial Legislature of Kansas; that the Legislature made provisions for electing delegates to that convention; that a large portion of the people of Kansas refused to vote, and that everybody who stayed away from the polls, not voting for delegates to that convention, did so from his own fault; and such being the case, he should be entitled now to no sympathy—no commiseration, on the part of Congress. It is contended, further, then, that if that was not true, that at least, when the constitution was submitted to the people, they then had a right to vote as to whether they would have slavery or not; and that, having refused to vote on that issue, they should be held to the consequences. In reply to that, Mr. President, in the first place, I contend that every man in Kansas had a right to suppose—every man who was not in the trick had supposed, that this constitution, as a whole, would be submitted to a vote of the people, for their adoption or rejection. If they have been guilty of any criminal negligence, they were lulled into it. If they had obstinately refused, just for the sake of obstinacy, to go to the polls, having a fair opportunity to record their votes upon the question at issue, then I confess they would be entitled to no sympathy at all.

But, sir, what are the facts? And, sir, in alluding to the facts, I intend to allude only to such facts as are indisputable—facts not disputed by any



speech made or letter written upon the side of the Lecomptonists, from, perhaps, the ablest speech, made by Senator Green of Missouri, down to, perhaps, the most puerile letter, written by a neighboring official, in which, among many other very modest things, the writer says, *he* "regrets that Judge Douglas has fallen into this error!" [Laughter.] I will state, furthermore, that the President admits them—does not dispute the facts which I shall state. He admits them in his Kansas message. In order that I may not misstate it, I will quote from Walker's letter. Governor Walker says:

"I accepted, however, on the express condition that I should advocate the submission of the constitution to a vote of the people, for ratification or rejection. These views were clearly understood by the President and his Cabinet. They were distinctly set forth in my letter, on my acceptance of this office, of the twenty-sixth of March last, and reiterated in my inaugural address of the twenty-seventh of May last, as follows: 'Indeed, I cannot doubt that the convention, after having framed a state constitution, will submit it, for ratification or rejection, by a majority of the then actual *bona fide* resident settlers of Kansas.' With these views, well known to the President and the Cabinet, and approved by them, I accepted the appointment of Governor of Kansas. My instructions from the President, through the Secretary of State, under date of thirtieth March last, sustain the regular Legislature of the territory, on assembling a convention to form a constitution, and they express the opinion of the President, that (now the quotation from the President commences): 'When such a constitution shall be submitted to the people of the territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence.' (That's the language of the President.) I repeat, then, as my clear conviction, that unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress."

Now, sir, those were the instructions to Governor Walker, upon his acceptance of the position of Governor of Kansas. Governor Walker states, in his letter, that he accepted only upon that condition—that he was clothed with that authority to have the constitution submitted to the vote of the people—that he had pointed out to him those instructions—that he was authorized thus to act by the President, before he was willing to accept the position. These instructions and that authority was a condition precedent with which he was first clothed, before he was willing to act in an official capacity. He went into the territory of Kansas, and proclaimed everywhere that the people would be protected in their right to vote upon the entire constitution. He exhibited the instructions of the President under which he acted, and perhaps prevented civil war by promising the people that, if they would put down their arms and cease their rebellion against the government, every man in the territory authorized to vote should have protection to vote for or against this constitution. But I may be asked by gentlemen, what right had the President of the United States, or Governor Walker, to instruct the people of Kansas as to how they would approve or disapprove of their constitution. It may be said that they had no right to guaranty those things, because this is a matter pertaining only to the people of Kansas. Admit it, as a legal proposition. Admit, for the sake of argument, that the President had no

right to give these instructions to Walker; that Walker had no right to make these pledges; yet, as a matter of fact, they did do it, whether they had the right or not. This is the fact, sir; the President did give these instructions, and Walker did make these pledges, and the people had a right to expect, and did expect, that they would be carried out. We must take these things into account in making up our verdict. How are we—how is Congress to determine whether this constitution is acceptable to the people of Kansas or obnoxious to them? You must go into the history of Kansas affairs; examine the lights before you; see how the people acted; what inducements were held out to them; what motives governed them in their conduct upon the subject; and, having done so, as a matter of common sense and common justice—I might place it as a matter of common humanity—I would ask, can any man say that a voter of Kansas was guilty of criminal neglect in refusing to vote for the Lecompton swindle, when he had the words of the Executive of the country, and the pledges, verbal and written, of the Governor of the territory, that they would use their influence with Congress to reject the constitution, unless it was submitted to a vote of the people? It was reasonable that they should refuse to vote for such a constitution, submitted as that was, as reasonable men, whether they were mistaken as a matter of legal right or not. Let me ask every senator here—viewing the facts as they existed, the promises made, and the expectations held out by the President and Governor Walker—whether they would not suppose that the people had a right to expect an opportunity to vote upon the constitution? They had, sir, the authority of the President, the Secretary of the territory, Mr. Stanton, and of Governor Walker—men who had no sympathy with the Topekaites—that they would have a right to vote upon the constitution in its entirety. Finding their expectations about to be disappointed, and the constitution submitted in a most unfair way, they committed no wrong in staying away from the polls: because, whether those who made those promises had a legal right to do so or not, the people had a reasonable right to suppose they would have the promised opportunity to vote upon the constitution. There is another fact. The people of Kansas had no right—not speaking of any negligence on their part—but it was absolutely without their power, to vote for a large portion of the delegates to the constitutional convention. And I refer to a portion of Governor Walker's letter upon that subject. Here are the recital of facts that came within his own knowledge:

“That convention had vital, not technical defects, in the very substance of its organization under the territorial laws, which could only be cured, in my judgment, as set forth in my inaugural and other addresses, by submission of the constitution for the ratification of the people. On reference to the territorial law under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required, by law, that a census be taken, and the voters registered; and when this was completed, the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and, therefore, there could be no such apportionment there of delegates upon such a census; and in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties in the territory, were entirely disfranchised, and, by no fault of their own, could not give a solitary vote for the delegates to the convention.”

Mark that, "by no fault of their own."

"This result was superinduced by the fact that the Territorial Legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty, by law, of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as was proved by the election in October last. These officers, from want of funds, as they alleged, neglected or refused to take any census or make any registry in these counties. And, therefore, they were entirely disfranchised, and could not and did not give a single vote at the election for delegates to the constitutional convention. And here I wish to call attention to a distinction which will appear in my inaugural address, in reference to those counties where the voters were fairly registered and did not vote. In such counties, where full and free opportunity was given to register and vote, and they did not choose to exercise such a privilege, the question is very different from those counties where there was no census or registry, and no vote was given, or could be given, however anxious the people might be to participate in the election of delegates to the convention. Nor could it be said these counties acquiesced; for wherever they endeavored, by a subsequent census or registry of their own, to supply this defect, occasioned by previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention."

Now, sir, mark that fact. Where there was a law requiring a census to be taken and a registry to be made by officers appointed by the Legislature, where it was incumbent on them to do it, they failed, alleging as a reason, want of funds to defray the expenses. Well, sir, that may have been a misfortune. Well, then, you may say, if the sheriffs failed to do their duty, and if those officers, whose duty it was, failed to have a census taken, and a registry book opened, why did not the people go on and elect, notwithstanding that? Well, they did that, and in four counties, where no census was made, elected their delegates. In these four counties, where they tried to have a representation in that model convention (?), they were rejected by the balance of the delegates to the convention.

"I repeat, that in nineteen counties out of thirty-four there was no census. In fifteen counties out of thirty-four there was no registry, and not a solitary vote was given or could be given for delegates to the convention in any of these counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one-tenth of the present voters of Kansas, represented the people of the territory, and could rightfully impose a constitution upon them without their consent."

Then, sir, according to that statement, there was scarcely one-tenth of the voters of Kansas represented by the delegates who framed the Le-compton constitution. This was not the fault of the people; it was, in the first place, the fault of the officers of the law—the creatures of the Legislature—themselves chosen, as was alleged, by fraud, in refusing to take a census and to make a registry. Then, when they committed that folly, and inflicted upon the people of Kansas that wrong, when the people desired to remedy it so far as they could, in the way of holding an election, virtually a good one, though informal and defective legally, the convention rejected their delegates.

Now, sir, with these facts staring us in the face—a convention formed



upon such a basis—representing not one-tenth of the voters of Kansas, the balance excluded by no negligence on their part, but when every endeavor and exertion to have themselves fairly represented upon the floor of that convention had been met with treachery and villainy—whose delegates were discarded, rejected, scouted out, as they were, by a majority of that convention, when the officers of the federal government and the President of the United States had promised them protection and equal justice—to call such, a fair opportunity of voting on the slavery issue, much less upon the constitution under which they were to live, is not only a mockery of justice, but a most damning outrage upon the dearest rights of American freemen, and against the better feelings of the human heart. [Applause.]

But, sir, there is another fact in the history of Kansas affairs: that in many counties—in Douglas county, which had the honor of sending the distinguished head of that convention, the famous Calhoun—that county which had sent eight delegates to the Convention, with Mr. Calhoun at their head—he and his colleagues came out, and in written letters published, planted themselves upon the doctrine of popular sovereignty, and pledged themselves to have the constitution submitted to a vote of the people. Now, sir, had the people a right to expect it? In the first place, they had a right to such expectations from the instructions of the President, from the pledges of Walker and Stanton; and, thirdly and lastly, from the promises of the candidates, made from every stump in Kansas, that they would have an opportunity to vote upon the whole constitution. Then, in the next place, when the majority of the voters were disfranchised, they would expect, as a matter of common justice, to be entitled to vote for ratifying or rejecting the organic law of the country, when that law had been framed by delegates representing one-tenth of the people over whom it was to operate. The convention assembled and framed the constitution. Did they submit it to the people? Why, sir, we are told that the slavery question—the only question which agitated the public mind—which created any disturbance in Kansas—that it was fairly submitted to the people! and that, therefore, (a most extraordinary therefore, that,) for all practical purposes, the issue was fairly met and decided. What is the fact in regard to that? They submitted, it is true, the question of slavery, but they left out every other one. Was that carrying out the doctrines of the Kansas-Nebraska bill? What, sir, do you understand to be the principles of that act? As I understood them, from the speeches of its advocates everywhere, and from the Democratic party, the main principle was this: that as there was a restriction—an unjust restriction—preventing people from one portion of the States to go into the common territory, obtained by the common blood and treasure of the whole nation, it was but just that that restriction should be wiped away. The object was to place slavery upon the same ground in the territories with all other domestic questions—subject only to the expressed will of the majority through the ballot-box. The object of repealing the Missouri compromise was to place the slavery question upon the same footing with all other domestic questions. There was an odious exception existing, so far as the Missouri compromise was concerned, in regard to slavery, which did not exist in regard to any other domestic question. The object of Congress in repealing the Missouri compromise was, to place this question upon an equality with all other domestic questions.

Now, sir, this convention submits, or makes a pretence of submitting, the question of slavery to the people of Kansas. Pause for a moment, without going behind into the question of whether they were bound to

submit the balance or not, and let us inquire what was the object of the Lecompton convention in submitting to the people of Kansas one domestic question, and in excluding from their consideration every other domestic question? Doesn't it appear very tricky upon its very face? Isn't it a self-evident proposition, that there seems to have been something lurking behind—some such object—some concealed motive, which they were unwilling to reveal to the people?—that out of all the domestic questions coming up, they will submit to the people only one, and exclude the balance? That, too, when Congress had established it as the future policy of the country, that there should be no distinction, but that all should stand upon a common platform—one having as much weight as another, so far as the people were concerned. Why, sir, it may be urged that it was unnecessary to submit the constitution to the people at all, because it required time, and labor, and expense! But, sir, that poor feint—that miserable excuse—will not do. They did pretend to submit one question—the slavery question. Upon that question their memory seemed to be green, but upon all the other great questions coming before a people in framing a constitution under which they and their posterity should live, their memory was withered and dead. It required no additional expense—no further time—no additional labor, for the people of Kansas to vote upon the question of banks, or any other question that came up with their constitution; they could have voted upon them all at once. And I say it deliberately and advisedly, that, from the fact of their submitting one question, and excluding all others, there is evidence of a damnable outrage intended to be perpetrated by that Lecompton iniquitous convention, for the purpose of taking away from the people those rights which the Kansas-Nebraska act intended to guaranty to them. [Applause.]

But, sir, there is another beautiful feature in regard to that Lecompton convention. On the shores of the Pacific, several thousand miles from the scene of action, it is decidedly cool and refreshing to look back and witness the proceedings and some of the beautiful conduct of that convention! In the submission of this question, they did not even deem it necessary that the voters should have the opportunity to vote for or against slavery, as a naked, unqualified proposition. They couldn't even vote upon that question by itself. Sir, the whole scheme was a falsehood upon its face—a fraud upon the people of Kansas from beginning to end—a lie nailed upon the very church-doors of popular sovereignty. It must have been concocted with the full knowledge beforehand that the people would vote against it, or refuse to vote at all, as the majority did, for they did not allow them to vote whether they would have slavery or not. If there was no condition attached to it there would be some plausibility in the idea of the submission of the slavery question. But they must swallow the constitution, whether they voted for slavery or not. They cannot vote either way—but they must vote “for slavery with the constitution,” or “against slavery with the constitution!” It is upon the principle: “You take the buzzard and I'll take the turkey; or, I'll take the turkey and you take the buzzard.” [Laughter.] Now, sir, it is argued by senators, I am aware, with effect, that as a matter of expediency, it is better to admit Kansas under the Lecompton constitution. They admit that we are right, so far as principle is concerned; but for the purpose of localizing the Kansas issue, they say, “let Kansas be admitted!” Well, sir, it is a question of opinion, about which there is serious difference, as to whether that will localize the issue or not. Judging from the past, the result would more likely be an open state of rebellion.

What is the result now? United States troops are quartered there

now, and civil war and rebellion will, no doubt, follow the adoption of this constitution by Congress. The contest will spread through the entire North. Then what becomes of the Democratic party of the North? let me ask you. While I am opposed to sacrificing principle upon the grounds of expediency; while I believe it is the tyrant's plea and a dangerous precedent in a free country; yet, if this was a question of expediency alone, I would have less hesitancy in assisting to settle it. But it is regarded as a principle that underlies the very foundation of American constitutions, and once abandon it, and, let me ask you, what would be the result? The Democratic party in Congress from the Northern States, would be hopelessly crushed out. Fanaticism would run rampant and riot; Abolitionism, its hydra-head and brazen crest reared aloft, with its serpent tongue would hiss defiance at the federal constitution itself.

The Democracy of the North once prostrate, where, in the hour of peril, would the South—those most clamorous for the admission of Kansas now, and under the Lecompton constitution—have to look for the preservation of its institutions? [Loud applause.] They look now to the conservative Democracy of the North; but force this constitution upon the majority of the people of Kansas, as it may have to be forced, at the point of the bayonet, and the press of the North will make common cause with their brethren in Kansas; and who, then, in the free states, could successfully raise his voice in favor of the institutions and the constitutional rights of the South?

But, sir, if we wanted any additional evidence that the Lecompton constitution is not only distasteful, but abominated by and obnoxious to almost the entire population of Kansas, we have that fact in the certificate of General Denver in regard to the vote recently cast upon that subject. He certifies that there were ten thousand and twenty-six votes against the constitution to only one hundred and sixty votes for it. It may be contended that all the people didn't vote; that those parties in favor of the Lecompton constitution did not vote; that they believed the election was irregular; that the Legislature had no right to make a provision for a submission to the people of the subject which had been already acted upon and ratified. But take the vote of itself, and it is the largest vote ever polled in Kansas, from its organization as a territory up to that election. Out of eleven thousand votes cast on the question, there were ten thousand votes against the constitution.

It may be argued that it was an irregular election—that it ought not to have been held, etc.; and what would Congress care whether it is legal or not—there is the fact. Then, sir, what is the plain and obvious duty of Congress under the circumstances? I see some portion of the people of Kansas present the Lecompton constitution, and cry: "We want to be admitted under this constitution." Those opposed to it, composing the majority, say: "We do not desire admission under it. We have rejected it. We do not like it; it is a trick and a fraud, perpetrated upon us from beginning to end; we will none of it. We were led into the opinion by the President of the United States, and the territorial officers, that we would have a right to vote upon it in all its parts; we were cheated out of that right, thus taking away the boon and birthright of American freemen from us." They would say further: "As we had no right to vote for or against the constitution, we remained away from the polls. At the earliest opportunity, the Territorial Legislature authorized us to vote upon that question, not having an opportunity before, when the constitution was submitted, and declare our will to Congress. After that iniquity is consummated, at the earliest opportunity we avail ourselves of it to



reflect to Congress, by our vote upon the subject, our wishes in regard both to slavery and the constitution." This will be the plea of the majority in Kansas to Congress.

Plainly, then, the duty of Congress is to respect the popular will, and to guaranty to the people of Kansas the rights which they believed they carried with them as citizens of other states, and of the United States, when they emigrated to that territory, and guarantied to them by the principles of the Kansas-Nebraska Act, which declared that they should be free to form their own institutions in their own way, subject only to the control of the United States.

I desire to say, in conclusion, that I believe, so far as the doctrine contained in the resolution which I had the honor of introducing some weeks ago, is the correct doctrine. I have seen no cause since to change that opinion. Other gentlemen who advocate the admission of Kansas under the Lecompton constitution, will enlighten the Senate upon the subject, and as they did not think proper to give reasons why the resolution should pass before I obtained the floor, I shall claim the privilege of replying. I believe it would be committing an outrage upon our constituents to pass this resolution. I am informed, and I believe the information to be correct, that nine-tenths of the Democracy of this state are opposed to the proposition contained in that resolution. It is so with nearly the entire Democratic press of the state. I believe it to be right. I believe it to be so in regard to the whole country. I believe that the people of the United States desire the rejection of that constitution. In other words, that the doctrine of popular sovereignty—wafted upon the white wings of God's truth—is bound to go on, conquering and to conquer, within the bounds of every state in this Union. Look at the states of the entire West—the great granary of the nation—the salvation of the Union in regard to this great question. See the unanimity with which they have spoken out in favor of the position of Judge Douglas. But we are told by some of the wiseacres of California, and some two or three newspapers in this state, that Judge Douglas is politically dead; that he has failed entirely to sustain his position on the Kansas question. These gentlemen forget that

"They never fail who die in a great cause.

The block may soak their gore;

Their heads may sodden in the sun; their limbs

Be strung to city gates and castle walls;

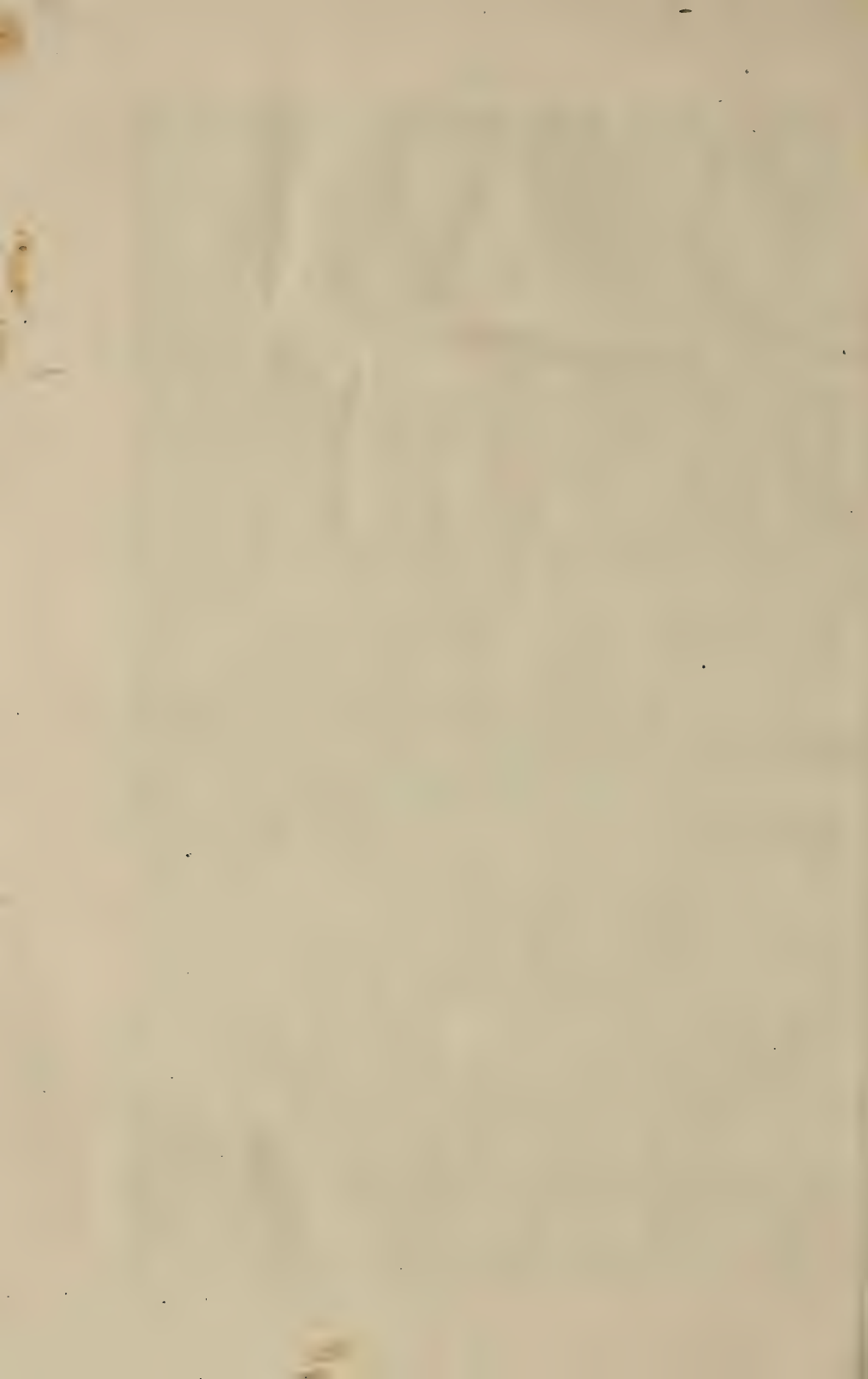
But still their spirit walks abroad. Though years elapse,

And others share as dark a doom, they but augment

The deep and swelling thoughts which overspread all others,

And conduct the world at last to freedom.

But, sir, Judge Douglas is not dead. He still lives in the hearts and affections of his countrymen. He still lives as the great champion and expounder of popular rights and popular sovereignty; and as such he occupies a position before the country, and the world, which no crown could exalt, no office could elevate, and no title could adorn. And never did the men of Roderick Dhu rally with more zeal among the glens of Scotland at their chieftain's call, than will the freemen of this great nation rally around the standard and to the support of the Giant of the West in his noble defence of popular sovereignty. [Loud and continued applause.]



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*W. T. Lure*  
*Hamilton*

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A D D R E S S  
OF  
HONORABLE JOHN C. FREMONT,  
TO THE  
PEOPLE OF CALIFORNIA.

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[ARGUS, PRINT, SAN JOSE.]



W. J. M. (see)  
M. J. M. (see)

## ADDRESS.

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Particular circumstances which have been created by the unexpected termination of my senatorial term on the 4th of March next, and the magnitude of the interests entrusted to the California delegation, make it expedient and proper that I should render to my constituents some account of the manner in which I have proposed to discharge my portion of the trust: especially as the approaching election, in awaking the concern of patriotic citizens for the welfare of the State, exposes my conduct to a severer scrutiny, and a stricter accountability than would otherwise have fallen to my individual share; and likewise renders it incumbent on me not to seem, by my silence, to acquiesce in the multiplied misrepresentations of myself and my measures which have been devised and pressed with so much industry for electioneering purposes.

When the State of California was finally admitted to a representation in Congress, the day for adjournment had already been fixed, and barely three weeks of the session remained. Although into this brief space was to be crowded the accumulated business of the session and the country, it was generally understood that a DAY OR TWO would be set apart in the Senate for the consideration of California affairs. With this restricted allowance---narrowed down, as it proved to be, by the pressure of other interests, to a few hours only---it was evident that little in the way of deliberate legislation was to be had for California. What I have to say, therefore, must be con-

fined rather to a declaration of my views, and a vindication of what I had proposed to do, than of what I have done.

Satisfied that in this condition of things you would require little at the hands of your delegation, but would be proportionately gratified with whatever they might succeed in accomplishing, I prepared myself to urge upon Congress the passage of the laws customary and necessary to our full political organization, and such other important and exigent measures as in our singular condition had become necessary. In carrying out these views, I resolved to bring before Congress only such practical measures as I might reasonably expect to obtain the favorable consideration of, and while asking for California all that had ever been granted to any other State, to introduce no propositions for the selfish purpose of creating false expectations or unfounded hopes at home, or hazard the good that I thought might be obtained by demands which in the present spirit of Congress I knew would not be listened to.

Immediately, then, upon taking my seat in the Senate, I introduced a series of measures, which though in some instances designed for local benefit, in greater part comprehend general interests of the State. With the view of urging these measures as far forward as possible, I had, in presenting them---as measures vitally affecting our future interests--- the special object of bringing them directly before the people of the State for their consideration, in order that at the ensuing session of Congress I might act with a decreased responsibility and under the authority and enlightenment of their fully expressed opinions. Continued ill health since my arrival has defeated one of my objects in returning to the State at this season, by preventing me from making a personal inquiry into the views of my constituents, that I might more effectually represent them.

Among the questions involved in the bills proposed, were several which a familiar knowledge of the country, and friendly relations with



a large body of its inhabitants led me to regard with a particular interest. First in importance, was the course to be adopted for adjusting titles to land and for acquiring rights of property in the gold mines. Upon the early settlement of these questions, and upon the direction given to the legislation of the general government upon them, depended in my opinion, a large measure of the future quiet and prosperity of the country.

To the bills comprehending these two subjects---land titles and gold mines---public attention has consequently been chiefly directed, and electioneering ingenuity has been chiefly expended to procure erroneous and prejudicial opinions. On them, therefore, I propose to make some remarks, referring for details to the bills themselves.

That which has been most frequently made the subject of remark and objection is the bill for preserving order in the gold mines, which has been condemned in general terms for excluding foreigners, and misrepresented as a scheme for imposing taxes on the miners, and in other equally unfounded respects.

As the title avers, the measure is a temporary one. It introduces a subject entirely new in American legislation, which from its novelty, importance, and intrinsic difficulty, excited much interest, and attracted a close and jealous examination. Its leading principles are to exclude all idea of making national revenue out of the mines; to prevent the possibility of their monopoly by moneyed capitalists; and to give to natural capital---to LABOR and INDUSTRY,---a fair chance, in fields of its own choosing: that is, to accomplish the double purpose of inviting the investment of moneyed capital, and at the same time preventing it from driving out or overpowering the population who have no capital but their courage and industry, in the domain which they alone have developed and made available.

It is the foundation of a system granting to individuals rights of property in the mines. Its passage would have been equivalent to a

surrender, on the part of the general government, of all usufructory interest in the mines, and must gradually have led to a relinquishment of their municipal control to the State: a result, in my opinion, imperatively necessary to be obtained, but not practicable at this time as a distinct proposition.

The original bill, as drawn up by myself, conformed to the character of our institutions and the general spirit of our laws. Its privileges were not reserved exclusively to citizens of the United States, and no invidious distinctions were established against any particular people. But before the subject came up for debate, in the Senate, the delegation of this State, on consultation, unanimously decided that, in deference to the expression of public sentiment as declared by the Legislature of the State, and endorsed in public meetings and by the public press, a clause should be introduced confining the mining privileges to American citizens. The action of your delegation was founded on what they had thus every reason to believe was the public sentiment here, and which it was their duty to represent. It appears, however, that the feeling here which made its impression at the capital, and influenced the action of your delegation there, had already changed when the next steamer brought an account of their conduct, and your returning representative finds himself unexpectedly censured for a proposed measure which he did not originate, and for which he is only accidentally in a situation to be held responsible.

Exception is made to the machinery, as we may call it, of executing the system; to the agents, to the permits, and of course to the sum, small as it is, which is proposed to be paid for the permit. Laws must have officers to execute them, and it is the purpose of the bill to provide the cheapest, most convenient and suitable system. In the first place, there are agents to reside each in a gold mine district, grant the permits to applicants, visit the mines, and

with a jury of six disinterested men---miners themselves, and friends and neighbors of the disputants---settle disputes equitably, without the delay and expenses of a resort to a court of law for every little question. To see that the agents are faithful, a superintendent is proposed, to superintend all the agents, examine their books and accounts, hear complaints against them, take appeals from their decisions, and suspend them and appoint others in case of misconduct. The superintendent would thus be armed with strong power, not over the miners, but over the agents, and for the benefit of the miners. It was considered necessary to have this strong controlling power present, that all possible attention should be paid to the faithful conduct of the agents, and the immediate redress of wrongs. The gorges of the Sierra Nevada are too remote from the metropolitan government---the President is too far off to observe the conduct of agents, to hear complaints, redress wrongs, or dismiss the unfaithful. It would be equivalent to no redress for injuries, if a miner who is wronged were obliged to send his complaint to Washington, and prove it at that distance from the scene of his complaint.

I have heard that it is objected to this feature of the bill, that it does not provide a further appeal of disputes. It will be observed, that the primary tribunal proposed, is a jury of six---two of whom, chosen by each of the disputants, and two by the resident agent. From this tribunal it proposes that the party dissatisfied with the decision, may appeal to the superintendent, who in his option may or may not refer it to a second jury of twelve. Probably it would have been better to make it incumbent on him so to refer it, at the demand of either disputant; and, perhaps, also it would be expedient to provide for a final appeal to a court of law. In reference to all this, it is only necessary to say, that the bill does not pretend to be perfect: it was not in the nature of things that it should be. It was expected that in its progress through Congress, it would be improved by the



ideas which the discussion of the subject would develope ; still more, that in its operation important amendments would be suggested. And I think I may congratulate myself, that in a subject of so much difficulty, affecting such great interests, and in which the past legislation of our country offered nothing to guide my labors, I was able to devise a measure, in which those who find it to their interest to misrepresent me and it, are compelled to resort to such details of it as do affect its principles, and only require an improvement to be suggested in order to be adopted.

The quantity allowed to each person, I supposed would be ample, considering the privilege of changing his location, and of selling his lot, as often as he pleases. Thirty feet square is proposed as the size of a lot to be worked by manual labor in a placer : two hundred and ten feet, or about one acre, to be the size of a lot in a mine worked by machinery in the rock.

A placer lot accordingly contains nine hundred superficial feet. A cube of these dimensions would be twenty-seven thousand solid feet ; and if a place of tolerable richness be found, an industrious man may say his fortune is made. If he sells, he may take another permit, and work till he makes another good discovery, and either sells this or exhausts it, and so on till he is satisfied, or the mine is exhausted. Wherever he may plant his stake, exclusive possession is guaranteed to the miner, so long as he works his mining lot, or to his assignee if sold, or to his heirs in the event of his death. All that he finds is to be his own. There is no tax to be paid—no per centum—no fifth, or tenth, or twentieth to the government. No officer to stand over, and require him to give an account of all he finds, and surrender up a part to the government,

For the more extended operations, by machinery, the dimensions of the parcel of mining ground fixed by this bill, are two hundred and ten feet square, or about one acre. In a mineral country, repu-

ted to be of such extraordinary richness, these dimensions were considered large enough for the mine itself, and for temporary buildings in the beginning of operations. Hereafter, when the mineral districts shall be better known, and the localities of the lodes or veins precisely marked out, it is probable that large contiguous spaces should be granted for the construction of the buildings necessary for extensive works. In the meantime, it should be remembered that these veins will occur in tracts of ground rich in loose gold, and that all the advantages attending a permit to work a placer, apply to the permit to work a mine, of which the superficial content is about forty-four thousand feet, and thirty feet depth of which would be one million three hundred and twenty thousand solid feet.

The bill contains beneficial provisions in favor of FIRST DISCOVERERS; they are to have double quantity without the payment of any fee, and with the privilege of a PRE-EMPTIVE RIGHT. This would furnish inducements to prosecute researches which would result in great benefit to the country, and the discoverer of a new placer, or of a new mine, will have a full reward for his enterprize.

Upon the principle of the sales of the public lands, five per centum of the proceeds from the sale of the permits, is to go to the State of California, to be expended in opening communications throughout the country.

The mode of taking effect of the system is equitable and proper, going into effect when the agent arrives in a district and promulgates the law; without any interruption to work going on, without any shock to existing operations, or any retro-active operation.

As already stated, the leading purpose of the bill is to secure to LABOR and INDUSTRY a fair chance in all the benefits of the mines; to exclude the idea of a government revenue from them, and especially to avoid any system that would cause an espionage by government agents, into the amount of any man's earnings. Without intending

to cast censure upon any one, it is proper for me to say, that every other plan, as far as I know, for the regulation or working of the mines, which has been recommended either to or in Congress, must have operated to the reverse of the objects which I proposed. Most or all the different plans suggested have contemplated, first, the advantage of the government, either in a per centage of the gold extracted, or in sales of the mining regions in lots, after ascertaining their comparative values by scientific examination, or finally by establishing government broker shops, to which every man should be compelled to bring the gold he should extract to sell at a fixed price ; and nearly the only objections urged to the bill which I introduced, and the reason that its friends did not succeed in getting it taken up in the House of Representatives were, that it proposed too much for the miners and too little for the government. From these facts, my fellow citizens who are engaged in mining operations, will better understand the condition of their interests at Washington, and the alternatives likely to be left to their representatives there.

I believe it is very important to the interests of this State, that the determination of the General Government in regard to the mines, should be speedily known, and the manner and conditions on which they are to be permanently worked relieved of the uncertainty and doubt that now unhappily check expensive enterprise. I think that rights in the mines ought to be insured, and not depend any longer upon chance and the contingencies of legislative caprice. It was consequently my endeavor to anticipate less favorable legislation, (which I believe is to be apprehended,) by initiating, and committing the government to the support of a system having for its object the interests of the miner ; but if any better plan were proposed for accomplishing the same end, and likely to be favorably received by Congress, I should, with increased satisfaction, substitute it for what I have proposed.



The leading principles of the Bill concerning Land Titles, is to QUIET THE COUNTRY, and to this great object its details are carefully directed.

The Bill proposes a Board of Commissioners, whose business it would be to collect evidence, and to decide briefly, and without the technicalities of legal proceedings on the great mass of cases which should come before them. They are required to travel through the country, and carry justice and quietude to every man's door. Cases involving any doubt or any question of law would go to the District Court of the United States, with an appeal, in the event of a decision against the claimant, to the Supreme Court at Washington. The great mass of cases, therefore, would be decided here, and speedily.

The purpose of this bill, I shall state frankly, was to procure the speediest, cheapest, and least troublesome mode, that was likely to receive the approbation of Congress, for the settlement of questions of title, and the separation of private lands from the public domain. The purpose of the bill was to quiet titles---not to disturb them ; to ascertain and guarantee the rights of property---not to destroy them ; to prevent---not promote litigation ; to make every owner of property, or who contemplated owning property, secure in the tenure by which he should hold. The only objections urged in Congress against the bill were to those very features that I think ought to recommend the bill itself to the people of the State, and to every one who has a regard for its honor and welfare. The only objections urged were to those provisions which contemplated a SPEEDY ascertainment and assurance of titles, by tribunals on the ground ; and nearly the sole amendments offered, were for the prolongation of the questions which now so much interfere with the harmony and prosperity of the country, and for their removal to Washington. The object of these propositions is so obvious---so plainly for the purpose of levying mail on the property of this State for individual benefit in the eastern States

—to secure, in short fat fees to the lawyers who congregate at Washington—to compel the people here to part their heritage with the promoters of litigation abroad. The object of all propositions of this kind is so obvious, and the monstrous injustice and hardship of sending the great mass of land titles of a country to be litigated six thousand miles off, by a people not acquainted even with the language in which they are written, and the disastrous effect such delays must have on the improvement of the country, are so striking, that I suppose no one can advocate them, whose interests and affections are not elsewhere than with the honor, dignity and welfare of this State.

The bill is framed in its general character in conformity with the customary legislation of our government ; but with important modifications, looking to the main object, already developed, of a speedy and cheap rendering of justice and establishment of quiet. The principal of these modifications consists in making the awards of the Board of Commissioners and of the local Federal Court final, when in favor of the claimant, and in making the law of prescription a foundation for title to be respected.

The law of prescription, more just and equitable than our statute of limitations, ought in justice to be recognized in adjudicating upon titles which were acquired under it.

So, the United States ought to be concluded by the decisions of its own law officers. They are their own judges, their own arbitrators, and ought to be concluded by the first decision against them, and not have THREE CHANCES at the same man's property. Neither ought the people to be made to spend their substance and their lives in contending at law with the government, for their homes.

I am in favor of, and shall gladly adopt any modification of the bill I introduced, or any other plan that can be devised, likely to meet a favorable reception in Congress, which shall better answer the ends

I have mentioned, of a speedy ascertainment and assurance of titles and establishment of quiet. But I shall never consent to any measure that may betray our government or people into the ignomy of confiscating the rights of a conquered people, or violating the stipulations of a treaty.

J. C. FREMONT.

December 24, 1850.











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Compliments of the Author,

CHANCELLOR HARTSON.

# ORATION

—BY—

CHANCELLOR HARTSON

—BEFORE THE—

San Francisco Turn Verein Association

ON THE 20TH ANNIVERSARY OF THE DEATH OF

ABRAHAM LINCOLN,

Frank Eastman & Co., 509 Clay St.



# ORATION

BY

## CHANCELLOR HARTSON

AT THE

### MEMORIAL SERVICES

HELD BY THE

SAN FRANCISCO TURN VEREIN ASSOCIATION,

ON THE

TWENTIETH ANNIVERSARY OF THE DEATH

OF

### ABRAHAM LINCOLN,

AT

TURN VEREIN HALL, SAN FRANCISCO,

April 14, 1885.

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Col. ERNST A. DENICKE,	- - -	Presiding Officer
CHANCELLOR HARTSON,	- - -	English Orator
FREDERICK SCHUENEMANN POTT,		German Orator

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SAN FRANCISCO:  
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1885.





# ORATION

BY

CHANCELLOR HARTSON.

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MR. PRESIDENT, LADIES AND GENTLEMEN:

Few men have been more intimately connected with the great and exciting events of American history, or have been more conspicuous actors and directors thereof, than him to whom this evening we pay tribute—Abraham Lincoln.

He was not only a distinguished leader, but the Chief Magistrate of the Republic when the momentous social, political and organic change in the government occurred, which deluged the country in blood, begot a new nation, with a new constitution and a new destiny.

His experiences are so remarkable, he represents so many phases of human life, acted so many strange and wonderful parts, that he has become an example to excite expectation and stimulate hope in a large class of American youth.

Although Mr. Lincoln attained to the highest post of honor in the Republic, he was reared among a rude and illiterate class in the sparse frontier settlements of a new country. He had no one to teach him the

rules of rhetoric and the graces of oratory. He visited no academic groves or classic halls. In his very humble beginning and high advancement, he perhaps represents the extremes of human possibilities. No other person in modern times has risen to so high a position whose early life up to manhood was surrounded by so many unpropitious and forbidding circumstances. His opportunities were most limited, his resources most restricted, and fortune in every respect adverse.

Although Clay's father died when he was four years old, still he was surrounded by cultured and influential friends, and some encouragement and aid was given him in his early life.

Garfield's father died when he was young, leaving the family dependent, penniless; still, with all of his disadvantages, unlike Mr. Lincoln, he began life in an intelligent and enterprising community, abounding in schools, churches and incentives to higher life.

Mr. Lincoln's high distinction and great fame lie chiefly in one direction. While he had lofty talents and superior natural endowments, his exalted reputation was established in the anti-slavery field in combating the then gigantic institution of American slavery.

Generally, great glory is won in some special field, in science, in literature, in art, in war or in statesmanship.

Webster, though a celebrated orator and profound



lawyer, won his great renown as a statesman in defense of the Constitution and the Union.

Humboldt acquired everlasting fame in revealing the secrets of the physical universe, culminating in his last splendid work—*Cosmos*.

Newton's great renown rests in the discovery of the universal natural law of attraction and gravitation, and that it applied to all matter through boundless space, whether star, sun or planet.

Morse's claim to be placed among the benefactors of mankind arose from the application of electricity to telegraphic purposes, thereby giving wings to words and the power of speech to lightning.

#### SLAVERY DOMINANT.

Mr. Lincoln's great triumphs were in the high and holy cause of liberty. When he began his great work, slavery was dominant everywhere; it formed a part of the organic law of the land; it was interwoven in all of the texture of law and government; it was incorporated in the creed of some of the churches; the courts vindicated the law and aggrandized the institution; grave Senators vied with each other in homage to it and in devising strange and stringent statutes for its enforcement.

As paradoxical as it may appear, slavery, though hoary with the age of thirty centuries, seemed to derive fresh impulse and vigor on American soil, strengthening and expanding with the increasing population, extending settlements, and the augmenting wealth and power of this vast Republic,

This was the institution, in its pride and pomp and power, that the subject of our eulogy challenged, resisted and encountered, denying to it the right of further extension and aggrandizement on this continent.

He soon discovered that he was engaged in a deadly contest with a gigantic and remorseless power, taxing to the utmost his ability, fortitude and heroic courage.

The great crisis of the country had come, the irrepressible conflict had begun, and with that great event and the glorious results which we now witness are linked forever his name and fame.

Unless we revert to the condition of the country in 1860, and consider its situation and the obstacles to be overcome, we will utterly fail to understand or appreciate his splendid achievements and his lofty character.

His name is inseparably connected with a series of liberty measures, terminating in the Proclamation of Emancipation and the extinction of slavery on this continent.

We are now reviewing the life and proudly pointing to the character of a great lawyer and statesman, who never sullied his lips by advocating the cause of injustice, cruelty, or oppression; who never supported power in the wrong against weakness in the right.

Above his statue, in letters of living light, should be inscribed in ineffaceable characters the divine sentiment emanating from his heart, uttered in his speech and exhibited in his life:

“Charity for all, malice towards none.

Firmness in the right, as God gives us to see the right.”

Rome points to a colossal statue and says that is Papinian, who—when the Emperor Caracalla murdered his own brother and ordered the lawyer to defend the atrocious deed—went cheerfully to death rather than sully his lips in his defense.

### LINCOLN'S CHARACTERISTICS.

Filial obedience was a predominant trait of his character. He regarded his parents with the most profound respect and esteem. A parental wish was to him law of the most sacred nature.

As he regarded with the most profound deference and veneration his earthly father, whom he could see and communicate with through the physical organs or senses, so he entertained the highest reverence and veneration for the Invisible Creator, the Great Father of All manifested to the Spirit; invisible Himself and comprehended only by the invisible mind of man.

Mr. Lincoln possessed the integrity of John Quincy Adams, the philanthropic spirit of Howard, the sagacity and plausibility of the accomplished and ornate Clay, the patriotism of Washington and the religious nature of Gustaphus Adolphus, without his enthusiasm and martial spirit.

Mr. Lincoln possessed a combination of great talents and great virtues, which, if called into exercise, would have adorned the page of history in any age.

As the mariner's needle in every quarter of the globe points to the polar star, so do humane and



patriotic hearts in every part of the habitable globe point instinctively to the great emancipator, Abraham Lincoln.

As the north star directed Columbus on the trackless deep when searching for a new continent; as the pilgrim fathers were conducted by it across the sea in their long and distressing journey to Plymouth Rock, Manhattan and Jamestown; as the commerce of the world, when contending with storms and billows, is directed by this eternal Governor, so the genius and character of this great master, this pioneer and leader in the cause of universal liberty and equal rights, which conducted our countrymen through the entanglements, dangers and violence of civil war, will still direct them in the paths of peace, happiness and prosperity.

#### EMINENT MEN OF THE NORTHWEST.

The northwestern part of the Republic has been especially distinguished for its royal offspring.

Mr. Lincoln was reared in that portion of the Republic where slavery was excluded by the ordinance of 1787, that never felt its withering influence except as its pestilential exhalations rising from the land of bondage were wafted like a plague in the breeze over this land, dedicated to freedom, infecting and paralyzing some who were weak, vain or inordinately ambitious. The great majority were unaffected and uncontaminated by its baleful influence.

The inhabitants of this region, exempt from the enervating heat of the torrid clime and the stupefying cold of the arctics, became robust, muscular and enterprising. Their early habits of frugality, industry and self-denial, the invigorating climate, unlimited expanse, grand scenery, freedom from tyranny and untrammelled social and political conditions, produced boldness, generosity and independence, and developed in a wonderful degree muscle, brain and heart—all that constitutes manly character.

Their physical, social and governmental state (relations) co-operated to form a favored land for creating robust constitutions; for the development of enterprise; for the unfolding of talents; for the exhibition of the loftiest flights of genius, and for the establishment of the most exalted, perfect and sublime character.

This great region with her northern sisterhood of States has illumined the world with a galaxy of heroic statesman and philanthropists that have made their age illustrious.

#### LINCOLN.

Among those renowned and fearless champions of popular rights and free government stands most conspicuous the great embodiment of the genius of American life and American institutions, the great High Priest in the temple of liberty—Abraham Lincoln.

High up in those royal ranks is found the courteous,

scholarly, ornate and eloquent Seward, who early consecrated his great talents to the cause of freedom, and who, with prophetic vision, foresaw and announced the impending and inevitable "Irrepressible Conflict."

Also, in the same high place, may be seen the erudite lawyer, the profound jurist, the sagacious financier, and the great statesman—Salmon P. Chase.

#### GARFIELD.

Also the gifted soldier and statesman upon whom heaven had lavished her richest treasures of head and heart; a man of colossal proportions as a scholar, as an orator and statesman, the bold and sanguine champion of freedom, who died in the zenith of fame, the idol of his party and the object of universal admiration—James A. Garfield.

We can best describe the great intellectual Titan and champion of equal rights before the law, in his own language, applied on an important occasion to a distinguished Western statesman—Senator Sherman. He has long trodden the perilous heights of public duty; he has stood in the blaze of that light that beats against the throne, but its fiercest ray has found no flaw in his armor, no stain on his shield.

#### GRANT.

And with what fitting words can we describe our patient, suffering hero, the greatest general of the age; he who gained imperishable laurels in defense of the flag, the government and liberty; he who made this and all succeeding ages his debtors—Ulysses S. Grant.



Simple in his tastes, unaffected and unostentatious in his manners, confiding and tender in spirit, inflexible in integrity and of lion-like courage, he stands out as one of the most remarkable men of this or any age.

During the thunders of battle when immense interests were at stake, he was calm, self-reliant and undaunted, never doubting but that he would wrest victory from the jaws of battle.

Unkind or disparaging words are strangers to his lips. He has a soul too lofty and too magnanimous, even in his hour of supreme exaltation and victory, to utter one word of humiliation to a fallen captive chief.

The great national heart in every part—North, South, East and West—throbs with anxiety and profound grief as the nation's hero and benefactor lies languishing on a bed of suffering, awaiting the summons of the messenger from the Throne.

It would seem invidious when describing the giants of the West, to pass unnoticed the great war Governor of Indiana, Mr. Morton, who, in the conflict, displayed the great administrative ability, sagacity and eloquence of Bismarck.

#### BAKER.

It would be unjust, not only to the Great West, but to the Pacific States, to pass unnoticed the gray eagle of freedom—Col. Baker—who combined in a remarkable degree the logic, brilliancy and eloquence of Cicero, with the dash of Marshal Ney and the impet-

uous courage of Von Moltke. Lone Mountain is now the home of the gallant soldier and eloquent Senator. He and the majestic Broderick, two of the great lights of freedom on the Pacific, lie side by side, both martyrs in the same cause.

#### PERSONAL HISTORY.

Mr. Lincoln, whom this night we honor, was born in Harden County, Kentucky, on the 12th day of February, 1809. His father, Thomas, and his grandfather, Abraham, were born in Virginia and removed to Kentucky in 1781 or '2. The President's great-grandfather was born in Berks County, Pennsylvania, and removed to Virginia. His father, Mordecai Lincoln, emigrated from England to Hingham, Massachusetts, in the year 1638 or thereabouts, and changed his residence to Berks County, Pennsylvania.

The President's grandfather, Abraham, while clearing up a farm near Bear Grass Fort, the present site of Louisville, Kentucky, was waylaid by an Indian and killed. The Indian then siezed Thomas, about six years old, who was standing by the side of his father when he fell, and was carrying him rapidly into the forest when an older brother, by the name of Mordecai, siezed his dead father's rifle in the cabin near by, and, aiming at a medal on the Indian's breast, fired through a porthole of the cabin and killed the Indian without harming Thomas, who, when released from the savage's grasp, sprang to his feet and rushed to

the arms of his mother standing at the cabin door, a witness of the bloody scene.

The maiden name of his mother was Mary Hanks, who was also of English descent. She has been described as a brunette, with regular features, and soft, sparkling hazel eyes. She had a frail constitution, a lovely and most affectionate nature, and was much endeared to her family.

In 1816, Thomas Lincoln removed with his family, including Abraham, from Kentucky to the southern part of Indiana.

He erected a log cabin, cleared some land and raised corn and vegetables, which, with the game captured, gave them subsistence.

On the 5th of October, 1818, Mrs. Lincoln, the mother of the future President, died. She was buried alone under a huge Sycamore tree in the solitude of the almost unbroken forest. She had taught her son Abraham to read and write, and she had carefully instructed him in the precepts and doctrines of her guide, the family Bible, early inspiring her youthful son with her elevated sentiments and noble character. The sad bereavement and solemn burial so impressed upon him the virtues of his mother that in after years, in the prime of manhood, he said:

“All that I am, and all I hope to be, I owe to my angel mother.”

“Happy, he,

With such a mother ; faith in womanhood

Beats with his blood ; and trust in all things high

Comes easy to him.”

At this time and place, there was no common school



system established; no school-houses, no churches, and few of the comforts and conveniences that are so lavishly bestowed upon us.

Occasionally, an itinerant teacher would make his appearance in those remote settlements and for a short time teach the rudiments of education. Mr. Lincoln, availing himself of such opportunities, attended school at various times, in all about twelve months.

The historian says, that in early life he wore a cap made of coon skins, buckskin pants, a hunting shirt made of deer skin or linsey woolsey and cow-hide shoes. His food was chiefly corn dodgers and wild game. His tools were the axe, the maul, the hoe and the plow. The gun was brought into requisition for amusement and meat. He early displayed a remarkable avidity for books; only few could be obtained, and these he memorized.

At this period he read Weem's life of Washington. The perusal of this work aroused his ambition, and he began to imagine that he would rise to eminence and honor, and that a great destiny was in reserve for him. He was an enthusiastic admirer of eloquence in the pulpit, on the stump and at the bar. Under such circumstances he grew up with a powerful body and vigorous intellect, free from intemperance, profanity and vice. He was six feet and four inches in height, and of gigantic strength. It is said that he could strike a harder blow with axe or maul, jump higher and further, and run faster than any of his associates, and

that he was invincible as a wrestler. He was famous for his love of mirth and hilarity, and for his wonderful power of narration, anecdote and ridicule. With such a capacity and disposition he was a welcome guest at every fireside and gathering.

In the spring of 1830, when Mr. Lincoln was twenty-one years old, his father removed with his family from Indiana to Illinois. Here Abraham helped his father build a log-house, break up fence, and plow a portion of the land he settled upon, and he split the rails to fence his fathers's land.

After this filial duty was performed, he asked and obtained permission from his father, to whom he had been obedient and faithful, to strike out for himself and seek his fortune. For a short time he resided on the Sangamon River, where his superiority over his fellows was so great that he was popularly called the Sangamon Chief.

In 1831, he was hired to aid in taking a flat-boat, loaded with provisions, down the river to New Orleans. At New Orleans he visited the slave mart and witnessed a slave auction, where slavery was exhibited in its most repulsive and revolting form. He saw families sold, and the husband and wife, parent and child, torn from each other's embrace and separated forever. Finally, when a beautiful mulatto girl was placed upon the auction stand and offered for sale to the highest bidder, he turned his back upon the scene in great distress and walked sadly and sorrowfully away, remarking to his companion, John Hanks: "If

"I ever get a chance to hit that institution, I will hit it hard, John." At this time and on this occasion Mr. Lincoln vowed eternal enmity to slavery.

After his return from New Orleans, he engaged as a clerk in a country store until the Black Hawk War began in 1832, when he volunteered, was elected captain of the company, and served his term of enlistment. He again enlisted, and served until peace was established. He there first met and become acquainted with Major Anderson of Fort Sumpter fame, and also General Taylor, who subsequently became President. After the war closed, he for a short period practiced surveying, and then became merchant and postmaster.

In 1834 and for three successive terms thereafter, Mr. Lincoln was elected to the Illinois Legislature. During his spare time while a member of the Legislature he studied law. When canvassing for the Legislature, he obtained great celebrity as a stump speaker and political orator. He was distinguished for wit, argument, anecdote and invective. Although he possessed the power of ridicule and sarcasm in a high degree, he seldom resorted to it unless compelled in his own defense.

On a certain occasion, when canvassing for the Legislature, having made a speech of great originality and ability, a Mr. Forquer, an able and eloquent lawyer, asked to be heard in reply. Mr. Forquer had been a Whig but changed his politics and was appointed to a lucrative office, and in his prosperity



had erected an elegant house, and equipped it with a lightning-rod, which was quite a novelty, and was regarded as a luxury in that new country. Mr. Forquer, when speaking, turned to Mr. Lincoln, and in a most sarcastic manner, said this young man must be taken down, and he was sorry that the task had devolved upon him. Mr. Forquer ridiculed the dress, person and argument of Mr. Lincoln in a very effective manner.

Mr. Lincoln, with calmness and yet with determination flashing in his eye, awaited his opportunity to reply. He answered his antagonist's argument fully and triumphantly, and continuing, said: the gentleman began his speech by alluding to me, and then said this young man must be taken down. I am not so young in years as I am in the tricks and trades of a politician; but, said he, pointing to Mr. Forquer, live long or die young, I would rather die now than like the gentleman change my politics and with the change receive an office worth three thousand dollars a year, and then feel obliged to erect a lightning-rod over my house to protect a guilty conscience from an offended God.

After his election to the Legislature, from association with men of talent, learning and experience, from diligent attention to the subject of legislation, and from careful study of legal, historic and scientific works, he acquired a capital of knowledge and wisdom which, with his transcendent natural abilities, pre-

pared and qualified him for the great battle in the cause of liberty then impending.

The continuous encroachments of slavery warned him that the irrepressible conflict had begun, and that its settlement, which had been deferred from age to age, could no longer be postponed.

At the auction block he had sworn eternal enmity to the institution that made property and merchandise of men, and he promised to hit it hard when the opportunity offered.

In the Legislature of Illinois in 1837, when a resolution was being passed in conformity with popular opinion and common practice, denouncing abolition as a heresy and a crime, and invoking governmental power to enforce and sustain the slave code, Mr. Lincoln and his colleague, Daniel Stone, dissented from the almost unanimous voice and vote, and entered a written protest against the pro-slavery measures—they declaring that slavery was an institution founded on injustice and bad policy, and declared their uncompromising hostility to any measure that tended to extend, strengthen, or encourage the system of bondage.

Again, while a member of Congress in the session of 1848, he introduced a bill for the emancipation of the slaves in the District of Columbia, and provided for the payment of a stipulated price to their claimants, declaring therein that slavery was unjust to the slave and impolitic for the nation.

Again, after the repeal of the Missouri Compromise,

when the fields of Kansas were reeking with the blood of the slain, when the smoke of burning dwellings darkened the atmosphere, Mr. Lincoln entered the arena of debate as the great champion of freedom, with the truths of the Declaration of Independence flowing from his eloquent lips; and he appealed with burning words to his countrymen to maintain these great truths and arrest the advance of that institution whose progress was fatal to the greatness and glory of the republic. His warnings of impending dangers startled the people from their repose like the peals of fire bells at midnight.

Again, after hundreds of thousands of his brave countrymen had fallen on fields of battle in the irrepressible conflict, he, as Chief Magistrate of the republic, issued that remarkable document, the Proclamation of Emancipation, which was followed by the amendment to the Constitution of the United States granting freedom to millions and saving the republic.

#### PROCLAMATION OF EMANCIPATION.

This was the crowning glory of his administration, the great legacy left to his country and the world, and the consummation of the highest and holiest purposes of his life.

His mission was accomplished. Like Moses, he could see but could not enjoy the fruits of the promised land. And he, too, with the hundreds of thousands of heroes that fell on the fields of battle, became a martyr in the cause of emancipation, and with his



heart's blood consecrated the great work that had been nobly and successfully accomplished, and with his life helped to atone for the great crime against humanity—American slavery.

This tragic termination of a heroic life was the last great sacrifice in the cause of liberty. His country lives and freedom survives because they died. Their great deeds, sufferings and death have made them the just inheritors of the everlasting gratitude of mankind. The coronation of the Goddess of Liberty was accomplished by the blood of these noble men. A noble life crowned with heroic death rises above and outlives the pride and pomp of empire.

Let them sleep on a nation's heart, embalmed in a nation's love. As the eye of coming generations turns back to pay its tribute to the gallant and great, it will see most prominent in that august body Lincoln and Grant. An emancipated and disenthralled race and a rescued and regenerated country are their monument. Its freedom is their epitaph; its prosperity, its peace, and its happiness their everlasting memorial.

#### INFLUENCE OF THE NOBLE DEAD.

These distinguished friends and champions of free government, these fearless advocates of the cause of freedom, have fallen. They are dead, and their bodies are buried out of our sight; but the record of their great achievement, their virtues and illustrious lives, is not buried.

The spirits of our noble men when emancipated

from the body still live, and appear more refined, more seraphic, more potential. After separation, the bright and tender face of a dear child becomes more attractive, more lovely, more angelic. A mother's voice and prayer more impressive, her face more heavenly, and a father's counsels more affecting.

For the further delineation of the marvelous power:

“Of those immortal dead who live again  
In minds made better by their presence ; live  
In pulses stirred to generosity ;  
In deeds of daring rectitude ; in scorn  
For miserable aims that end with self ;  
In thoughts sublime that pierce the night like stars,”

I call to my aid some of the pleasing and instructive expressions and thoughts of the scholarly Everett.

Great men—the world's benefactors—do not and cannot die. To be cold and breathless; to feel not and to speak not; this is not the end of existence to the men who have breathed their spirits into the institutions of their country; who have stamped their characters on the pillars of the age; who have poured their heart's blood into the channels of public prosperity. Tell me, ye who tread the free soil of America, is Lincoln dead? Can you not still see him, not pale and prostrate (the blood of his gallant heart pouring out of his ghastly wound) but moving resplendent over the redeemed land, with the rose of heaven on his cheek and the fire of liberty in his eye. The hand that traced the Proclamation of Emancipation is motionless; most of the eloquent lips that sustained it are hushed; but the lofty spirits that conceived and maintained it cannot die.

“ These shall resist the empire of decay  
 When time is o’er and worlds have passed away,  
 Cold in the dust the perished heart may lie,  
 But that which warmed it once can never die.”

The interest and duty of every citizen of this favored land is united with the influence of the hallowed dead in maintaining the honor and glory of this Republic.

#### GENTLEMEN OF THE TURN VEREIN SOCIETY:

I am most happy to meet you here to-night and unite with you in recounting the services and in commemorating the worth and virtues of the great apostle of liberty and free government—Abraham Lincoln.

Many who now here unite in this memorial service of the 20th anniversary of the ascension and crowning of our revered Chief Magistrate, trace their birth or lineage back to that fatherland, prolific with renowned scholars, eloquent divines, learned and wise statesmen and heroic warriors; to that country that contributed to the roll of the world’s great Emperors, Frederick the Great and also the present Emperor William, with his world-wide reputation for wisdom, justice and lofty character; to that land that provided Britain with the greatest ruler that ever graced an English throne—one who carried to that throne a spirit and character that has influenced and energized and elevated nations.

We rejoice that at your distant firesides you saw the bright morning light streaming up from this western world, and that in the warmth of your patriotic hearts



and in the admiration of the free institutions of this fair land, that the DeKalbs and the Steubens and the La Fayettees and the Seigels, volunteer generals of the American army, had helped establish, you left home and kindred and native land, with all of its pleasures and attachments, and encountered the fatigues and privations of a long journey over a dangerous ocean, to make this the land of your choice, also the land of your adoption.

The country welcomes you to its privileges, its duties and its honors.

Heaven bless you that you could appreciate and honor such grand characters as Washington, Lincoln and Grant, and that you are here to crown them with imperishable laurels.

You have not only helped to establish a just, free and humane government, where all are equal before the law, but you have also helped to establish here on this continent an empire broad enough, liberal enough and brave enough to tolerate all opinions, all faiths and all creeds, trusting that in the argument, reason and religion would be enthroned, justice and right would prevail, and that the highest interests of mankind would be subserved.

#### THE COST OF THE HERITAGE AND THE DUTY OF FREEMEN.

The battles of Constitutional liberty have been nobly fought, and the inestimable prize won at terrible cost.

The United States now has a more perfect system of Government established than elsewhere exists, or has existed in the history of nations.

To secure the Independence of the United States from Great Britain cost indescribable hardships and suffering, and the best blood of the colonies.

The ensanguined fields of Bunker Hill, Saratoga and Yorktown are memorials of the great work accomplished.

To eradicate slavery from the constitution; to dash to earth the fetters of three millions of slaves; to perpetuate free institutions in this Western World; to maintain the unity, power and glory of the United States, and to make them as in brotherhood, so in interest, affection and purpose, one and inseparable forever, was a work of colossal magnitude.

The bloody fields of Bull Run, Fort Donnelson, Chatanooga, Vicksburg and the memorable battle-fields of Virginia and the South, covered with fallen heroes, attest the immensity of the undertaking and cost and worth of the victory.

We can, in some degree, show our gratitude for sacrifices and sufferings in the cause of independence and liberty, and our appreciation of the blessings of Constitutional government, which we have inherited by preserving them in their original spirit and purity, and by transmitting them unimpaired to future generations.

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# SPEECH

— OF —

HON. CREED HAYMOND,

AT SACRAMENTO, CAL.,

JULY 22d, 1875.

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**Headquarters State Central Committee,  
PEOPLE'S INDEPENDENT PARTY,**

No. 34 Kearny Street, San Francisco.

**SAMUEL COWLES, Chairman.**

**J. M. CURRIER, Secretary.**

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## HON. CREED HAYMOND'S SPEECH

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MR. PRESIDENT, LADIES AND GENTLEMEN: It has been with mingled feelings of pleasure and of sorrow that I have seen such a multitude of people assembled at the little county meeting that we are holding here to-night—feelings of pleasure because I rejoice to see that the people of Sacramento are right; feelings of sorrow because we hoped to have a ratification meeting at which the Governor should speak, now I know we cannot have one in Sacramento because there is no place large enough to hold it. If there is any man who can look over this large assemblage to-night and feel that he is not with us, he is about in the position of the boy in Indiana, of whom my friend Dan Voorhees tells a story. They had a camp meeting in that State, and there was a great deal of excitement, and the preachers had delivered such eloquent sermons that the people were so enthusiastic that everybody had gone up to the anxious seat except one poor, solitary little fellow, sitting off on a stump. The preacher saw him, and went off and said: "My son, don't you want to go to glory, too?" The boy replied: "Is all them gals a-going there?" "Yes," said the preacher. "And no switching off?" said the boy—because he had heard of railroads there, too. [Laughter.] "No," said the preacher; "straight through by daylight." "Well, sir," said the boy, "if all these people are going that way, there is no use of me whittling here on this stump. I guess I will go too." [Laughter.]

### THE REPUBLICAN ADDRESS.

I am glad to see the interest the ladies are taking in our meetings, and I am sure when we have the ladies on our side we cannot fail. [Applause.] I am glad for another reason, fellow citizens, a reason that rises above all other considerations. We are now entering upon the Centennial year of our nation's birth, and it should be an era of good feeling. A few months ago the Republican party of this State opened the Republican campaign with a document, which is without parallel in the history of political parties. It was drawn, I suppose, in some other clime; it is unsuited to ours; and although the Republican party, or the Union party, whichever you may choose to call it, have followed their banner through the smoke and fire of long years of battle, until it floated in the hour of victory over a united people, there was not, within the State of California, one single Republican paper that indorsed the blood-thirsty sentiments that were uttered in this document. Time passed on until we approached this campaign, and a gentleman, who is now a candidate upon the Republican ticket in this county, issued a notice that on a certain evening he would deliver an address upon the "Probabilities of another Rebellion." And I will say to

the credit and honor of the Republican party, that I have not seen one member of that party within the limits of the county that indorsed the action or the sentiments that were there uttered. [Applause.]

#### REVIVING WAR ISSUES.

Mr. Sargent and Mr. Gorham have opened on the same line; and what Republican in Sacramento county indorses their bloody-shirt business? Not one that I have seen. What does it indicate? Why, it indicates that we have arrived at that moment in the history of this country when the men who made the fight upon one side, either in the ranks or by supporting the army with their influence, their money and their good-will, see in the war only a political necessity that no human foresight could have averted; and when the southern people, in good faith, have laid down their arms and come back and said, "We give up this struggle; we want to march along with you in the pathway of empire, to be part of this great people, and to follow the glorious flag that brought with it victories in war and has added a greater memorial—that of victory in peace," I say this to their credit: that they were willing to stop the war; willing that peace should come; and I appeal to any Southern-born man that may be in this audience if this is not true. And I appeal again to that Southern-born man by the love which he bears his native land, by that fealty which makes blood so strong, tell me whether the letters which come to him from his home are not of the same tenor: "We are not seeking for political power. Broken and undone, suffering as we are, it is a question of bread and of butter for our wives and our little ones." When the Republican party was willing to do this: when it was willing to blot out of existence all of the causes which have tended to destroy the peace of the country, how is it with the people who call themselves the Democratic party?—men who were on the other side during the war. Why, from this very stand, on last Saturday night, every union man, be he Democrat or Republican, every man who followed the flag, was denounced in unmeasured terms, and you were told that in their hands the peace of this country could never be assured. Now, gentlemen, that was a great political mistake—and a political mistake is a crime. It is because there is in the Republican party such men as Sargent and Gorham—human hyenas, who go down into the grave to dig the filth they feed on. [Applause.] And it is because there is in the Democratic party a set of wild, impracticable rebels who would not fight when they had a chance, and who want to carry on the war now. [Applause.] It is because of these things, my fellow citizens, that I am with the Independent party, and I hope it is because of these things and the love you bear your country, that you are with the Independent party. [Applause.] I ask you to contrast the language which fell from the lips of William Irwin and W. B. C. Brown, on this stand, and that which falls nightly from the lips of Sargent and Gorham, with the patriotic words of Sacramento's Senator in San Francisco night before last, and tell me which are the words of the patriot and the statesman.

Said Mr. Irwin: "The Independent party came up like Jonah's gourd, in the night, and it will wither in a day." It is true it came up in the night, but it welled up from the hearts of the people, and it will never wither. [Applause.] American freemen are asserting their dignity, and their party will pass away when the Temple of your country's liberty shall have been completed, when peace and prosperity and happiness pervades the whole land, and when justice is dealt out alike to the rich and the poor, without money and without price. [Applause.]

#### BIDWELL AND HIS ASSAILANTS.

But, gentlemen, it has been discovered that the Independent candidate for Governor, (John Bidwell) who has lived here longer than most of you



are old, and who has always borne a reputation of honesty and integrity, has bribed the whole United States of America. [Applause.] That sort of fight will not win with this people. I have always asserted that California has been peopled by the best men and the prettiest women in the world. They have come here and learned that fair play is a jewel; and I believe to-night that these assaults upon the character of General Bidwell, without foundation, and wiped away with a single breath from him, will make him thousands of votes, because it is not a fair, manly, honest and upright fight against him, such as the American people like. [Applause.] When Martin Van Buren was Vice President of the United States, his wife came to him one morning terribly excited, holding in her hands a newspaper, and said: "I want you to read the editorial in that paper." Well, he read it. "Now," said Mrs. Van Buren, "if you don't go and cowhide that editor before 12 o'clock, I will leave your house." "Why," replied Van Buren, "I wrote that article myself, and paid the editor \$300 for putting it in, and I expect (as it did) that it will make me President of the United States." [Applause.] I don't know whether Mr. Bidwell paid Mr. Sargent for making this charge. Mr. Sargent is a very strange man, and Mr. Bidwell could have afforded to have paid him for making the charge—and whether it was paid for or not, it will certainly make him Governor of California, even if he did not have 10,000 or 15,000 votes to spare in the beginning. Now, let me show you how unfair it is to attack the private character of a citizen when he is a candidate for office—to take an appeal from the judicial tribunals to the people at a mass meeting. I am a candidate for State Senator. My friend, Mr. Carey, a most estimable gentleman, is a candidate for the same position. He thinks he is running, but he is very badly mistaken. He has all the way from 8,000 to 30,000 acres of land. Well, now, if General Bidwell, with 22,000 acres of land, has got too much land to be Governor, I would like to know where Carey's chance is going to come in on this proposition. [Laughter.] But this is not the question. Suppose I was to go to the archives of the State Land Office, and hunt around and discover that at the time Mr. Carey's land was located, there was not a single perfect application for swamp-land in the State. Suppose I should discover some imperfection in his title, and talk about it, and say that Mr. Carey must have bribed the Attorney-General of the State. What would you do about it? You would vote for him, because I was not fit to be Senator. You would say that Mr. Carey has lived here, and has been a man of character and standing, and we don't believe that story, and we will vote for him. And this is what you say to Mr. Sargent. [Applause.]

#### SARGENT AND LAND MONOPOLY.

And how is Mr. Sargent as a land monopolist? He was in the Congress of the United States which passed that bill that threw open the gravel claims—the mineral lands of the State—to be taken up in limited quantities; the patent No. 32, for mineral land, was issued to Sargent and Jacobs. That was for 1,059 acres of the best mineral lands in Nevada county. Now, what would be said of us if we came here and assailed Mr. Sargent's character, because he availed himself of the provisions of the law which he himself passed? Why, you would answer: Sargent has his faults; he is an impetuous man; a man of strong prejudices, and often does things which injure himself and others; but withal, he is an honest man. Now, what is Mr. Bidwell's monopoly compared to his? One thousand and fifty-nine acres of land to be put upon the London market for sale for \$500,000 or \$600,000! That is as much as Bidwell's ranch is worth to-day. And one hundred feet square is a claim in the mineral regions, and one hundred and sixty acres is a claim in the agricultural regions. There is no comparison between the two. Yet I say it would be an unjust and un-

worthy thing for a man to assault Mr. Sargent's integrity; yet it could be done with more force and effect than his assault on Mr. Bidwell. [Applause.]

#### BOOTH AND THE SENATORSHIP.

There is one thing that I desire to speak to you about to-night. Governor Booth was not my first choice for the office of United States Senator. I had a friend who wanted to be Senator, and I am a little inclined to go for my personal friends, if they happen to be in the same party. I think you all do that. But my friend drew out of the fight, and I then went to Governor Booth and told him that what little I could do I should do to secure his election, because—I did not tell him that, but it was my reason—because I believed he was an honest man, and that he always did exactly what he said he would do. It has been publicly asserted in this State, that Governor Booth sought this office, and that a prominent citizen holding office was forced to resign because Governor Booth wanted him to support him and he could not do it. Now, fellow citizens, what was there about Governor Booth's candidacy? Why, the whole people demanded that he should be Senator. I was traveling through some of the counties, and I heard Democratic candidates for the Legislature pledge themselves in the sight of Heaven and of their audience that if elected they would vote for Newton Booth, and I heard them vote for Farley when they came here. So intense was the feeling, that in many counties no man could be elected—whether he was a Democrat or Republican—that was not for Newton Booth for the United States Senate. They came here, and by the merest accident in the world there were enough men who kept their pledges—not made to him but to the people—to elect him; and I am here to-night to make this assertion: that no man can be produced by Mr. Gorham or anybody else, that ever Governor Booth at any time or in any manner, or under any circumstances, asked to vote for him for the United States Senate. [Applause.] It was you and I, and the people of this great State that made him our Senator; and I thank God that he is a leader worthy of us, and that we are a people worthy of such a leader. [Applause.]

#### IRWIN AND THE FREEMAN BILL.

Now, then, my friend William Irwin, who is a most estimable gentleman, but who has been figuring so much about freights and fares that he has gone crazy—but I expect every day Gorham will set him and Phelps down with a slate to have another figuring match;—of course both of these gentlemen will have plenty of time to do it after election, because we will not want any more of them—he came here the other night and read a mass of statistics about fares and freights, and I venture there was not a man in the whole audience that knew what he was talking about, and he did not know himself. [Laughter.] He first started out attacking Freeman's bill. Freeman's bill is not a candidate for Governor, and is not running against Mr. Irwin at all. What impression did he give you about that bill? Why, that it was a bill fixing the rates of freights and fares. Don't I state his position correctly? If I do not, let any gentleman in this audience contradict me. William Irwin knew when he made that statement—when he intended to lead you to believe it—that the Freeman bill was nothing of the kind. It did not fix freights or fares. I do know this thing—that the ablest man who was elected to the last California Legislature—a man, who although in the minority party, became the leader of the House—a man who to-day is a candidate in his own Judicial District—the candidate of every party—for District Judge, and there is no man against him—and that man is George Williams, of El Dorado. I know that he did state to me and to others, after the bill was defeated in the Senate, that it was a just, righteous and honest measure, and I will here give his testimony. You are asked to believe the men, who slaughtered that bill and

every other bill to regulate freights and fares, without regard to what it was, are now in favor of regulating freights and fares. These gentlemen, like Irwin and Farley, are a great deal like a member of the last Irish Parliament—the last one that assembled on the old sod, and composed of some of the brightest intellects that that country ever produced. A motion was made there for something, I don't remember what, and a very excitable old gentleman got up and said, "Mr. Speaker, I give notice now that I am opposed to this motion, and to every other motion that is made in this Parliament." [Laughter.] And that was the way with Irwin and Farley and those men that were opposed to the Freeman bill. They were opposed to the Freeman freight and fare bill, and every other freight and fare bill.

WHAT THE FREEMAN BILL WAS.

Now, what is the Freeman bill? It is a plain, simple proposition, that any man can understand. The law of the State of California to-day says that no railroad company shall charge over 15 cents per mile for freight, nor over 10 cents per mile for passengers. The law, is it now exists, fixes the freight rate—the maximum—from Oakland to Chico at \$34.40 a ton. Now what did the Freeman bill propose to do? Why, it was a maximum bill, and it said the freight to Chico should not exceed \$7 a ton. Now the present law allows \$31.40 a ton, and the Freeman bill allowed \$7 a ton. Is not this a very plain proposition? Is that the bill the Railroad Company was in favor of? Mr. Irwin would make you understand that Freeman was a member of the Contract and Finance Company. Freeman went on this basis; that the Railroad Company has carried freight from Chico to San Francisco for \$6 per ton, and he said that must be very nearly right; we will fix the rates at what they themselves fixed them whenever they had competition, and we will allow them a margin, and so they were to be allowed to charge not exceeding \$7 a ton, and in proportion throughout the whole line of the road, and that, with clauses against discriminations, was all of the Freeman bill. It did not fix the rate of fare and freight at any point in the State. It did not pretend to. They got up this hue and cry during the session of the Legislature, and the people of Chico, thinking that they were going to be ruined, telegraphed—and General Bidwell signed the dispatch—"We are in favor of the Freeman bill, but we want an amendment to it." And that amendment was to meet the very objection that Mr. Irwin made to the bill. The amendment was that at no point on the line of the road shall the rates of freight and fare be higher than they were on the first day of January, 1874, and Wm. Irwin, the Democratic party's candidate voted against the amendment and against the Freeman bill too. And that is all there is about it. They passed another bill, and I will read to you what a Democrat said about it, and that Democrat is John McMurray, Senator from Trinity county, and an honest man. He said, in speaking of the bill which the Senate did pass: "I am satisfied that this bill is merely intended to enable men here to dodge the question. It is a farce." That is what we are all satisfied of. The *Butte Record*, the best Democratic paper north of San Francisco, said that "the failure to pass any measure regulating freights and fares will injure mostly the Democratic party." Now this is a Democratic paper, then published in Oroville, and edited by Crossette, one of the strongest Democrats in this State. He thinks he is supporting a Democratic ticket, but he is very much mistaken.

THE CORPORATION'S COMMITTEE BILL.

But what more is there? If Freeman made a failure, how does it excuse Irwin? He had made the same pledges, and what did they (the Democratic party) do? They made a freight and fare bill, the only one they dreamed of passing, the special order for discussion. When? At 9:35 in the evening on Saturday, the 28th day of March, 1874, and they passed the bill at about 11 o'clock, as near as can be ascertained from the journals, on that night,



and sent it to the Assembly of California at 10:45 on Monday, the last day of the session, when they knew, and every Senator knew, that under the rules a single objection would defeat the bill. The Committee on Corporations in the Assembly reported the bill back with amendments, and Mr. Snyder, from Mariposa, objected to the consideration of the bill. I say, upon the record, the railroad company had captured the Senate of the State of California, and any legislation was impossible on the subject, and in pursuance of the bargain that was at the time made with Pendegast, Farley and Wm. Irwin, they are trying to work out their mutual ends and capture the State next time. And no sensible man believes to the contrary.

#### RECORD OF THE DEMOCRATIC PARTY.

Now, then, there is something further that Mr. Irwin said—that his party had a record. Yes, and God help the record they have made for that party. And he said that the Independent party had no record. I shall come to that after a while, and I thank heaven that we have such a record. The sixth plank in the Democratic platform, reads as follows: "That the Democratic party has no occasion to make any new departure or declaration of opposition to the system of subsidies, when we recall the fact that it is to a Democratic State Administration that this State owes its deliverance from this oppressive, unjust and corrupting system." That is, the Democratic party—or this so-called Democratic party—because it is not the Democratic party. I knew that party when it was a proud old party; when its flag was borne in a good cause at the head of the people. And what is it to-day? They have surrendered it, with its principles, to Leland Stanford & Co. Now, they make a declaration that they are opposed to subsidies, and they say their record should speak for them. Let their record speak by my voice to-night. The Legislature of 1869-70 was Democratic in both branches. Rogers was at that time Speaker of the Assembly, and E. J. Lewis, of Tehama, was President pro tem. of the Senate; and it took all the power that Governor Haight had to keep them from stealing the whole State and giving it to the railroad company. [Laughter and applause.] I stood in with Governor Haight, and very few of these men did. They passed bills, giving millions of subsidy. This is the last time they have been in power in this State. This is the last Democratic record, and they stand by that record. And what had to be done to defeat them, and sustain the Governor's veto to their subsidy bills? Why, Sirs, Mr. King, the Governor's Executive Clerk, has often told me that he went to the residence of Senator Burnett, who was then lying on his dying bed, and said to him, "The vetoes are up in the Senate. The house has gone for subsidy. We cannot count in the Democratic Senate but thirteen votes to sustain the Governor. You must come if you can." His wife said, "Go; discharge the duty you owe to your party and the State of California." And he was carried, a dying man, into the Senate of California, and his vote beat Mr. Farley's vote, the author of the platform, and saved this State. [Applause.] And in the light of history, I charge to-night that the Democratic party in that Legislature violated every pledge that they had made upon this question. I might charge them with the murder of Mr. Burnett, and let them answer to it. That is their record upon the subsidy question. It is the last time that they have had a chance to speak upon it, and they said "subsidy," "subsidy," and there was no end to the subsidies they granted. Let me show you what this plank means. It means that the party stands by its record—that is, in favor of every subsidy that is asked for. But there is a little more significance in it. I read this language of the Senator from Siskiyou county (Mr. Irwin), as late as in January, 1874, he uttered from his place on the floor this

language: "I am inclined to believe that the anti-subsidy doctrine, now now so popular, will not continue to be the doctrine of the American people." Well, I think not, either, if the American people are to be led away by this so-called Democratic party.

THE DEMOCRACY AND LOCAL OPTION.

But there are many more nice things in the platform. They go along here and tell us in the twelfth plank, that they are opposed to all prohibitory laws. What do they mean by that resolution? It means opposition to the Local Option law. In this Government each Senator, each Assemblyman and each Governor takes an oath to support the Constitution of the State of California before he takes his seat, and the Supreme Court are empowered to interpret the Constitution. The Supreme Court of the State of California have said that the Local Option law is unconstitutional, therefore, when I go to the Senate, when the roll is called on that question, I shall vote "No," under my oath, and if such a bill goes to the Governor of California it will be his solemn duty to veto it, because he is bound by his oath to do it. [Applause.] But was not this a pretty thing for those gentlemen to refer to? Why, my brilliant young friend, William Wirt Pendegast, as bright a man as we have in this State, was the father of the Local Option bill. He urged its passage, and said it was right, and voted for it, and after it was passed he traveled around the State making speeches in favor of its adoption. Now, is this sincerity—honesty? They oppose this year what was made a Democratic measure last year. And a little more on this question of sincerity. There was a fight in the Democratic party for the office of Secretary of State, and our fellow-townsmen, W. B. C. Brown, whom we all like, barring his bad politics, was a candidate for the office. He was a gentleman, who, at the instance of the Liquor Dealers' League, went to San Jose, Oakland and other places, and made speeches against the adoption of the Local Option law. Now, if these people were honest, was not Brown the man to put on the ticket? Wasn't he the man if they were opposed to Local Option? They didn't put him on. Whom did they put on? Why, Thomas Beck, the Senator who voted for the Local Option bill first, last and all the time. And this is a question of sincerity.

THE DEMOCRACY AND IRRIGATION.

And now the fifth plank. \* \* \* "And we further assert it to be the duty of the Government to preserve the waters of the State for irrigation and other public uses, instead of permitting them to be made the means of extortion and monopoly." That reads all right, and we are all in favor of it; but let us see how honest they are in it. I was amused the other day when my friends of the *Record-Union* said that William Irwin ought to go after Booth on the irrigation question, and he would make it very lively for him. They like to see people attacked, and that is all right when men can stand it as well as the Independents can. Was the *Record-Union* honest in that declaration? Let me turn to the record. Governor Booth in his last message recommended to the Legislature of the State of California that they appropriate the public waters in the State and adopt a State system of irrigation. What followed? The Independent party passed the bill which the Governor recommended—a good bill, which cannot be attacked successfully—by every vote in that body except six or seven. That bill went to the Senate. I have General Evans' words in a debate on the bill, that its passage was petitioned for by 25,000 farmers—sworn to be such. The bill was recommended by the Judiciary Committee, and by the Irrigation Committee, and it came up for passage. The Grangers were represented there, and they sent a man there to favor its passage. The Grangers had been perfecting that bill, and it is the very bill which the Democratic party now declares in favor of, and that party defeated it. William Irwin was a cham-

pion in the opposition to that bill, and he is now traveling over this State trying to get the farmers' votes because he favors irrigation. [Applause.] A little more of the consistency of this Democratic party. Mr. Roach, a Senator, a man above suspicion, and also a candidate for Governor, said this in relation to this bill, which Mr. Irwin opposed and a partisan Senate defeated: "For many years I have opposed monopoly in all its forms. One of the greatest, most dangerous I think, is the monopoly of the water that ought to belong to all. This bill provides that the people shall have control of the waters of the State through the action of the proper officers representing the people. I therefore cordially support the bill." Now, this is more Democratic testimony. Twenty-five thousand farmers, according to General Evans' statement, petitioned for its passage, swearing that they were farmers; the Grangers, or Patrons of Husbandry, sent an agent here to favor its passage, and William Irwin defeated it; and now he is running on an irrigation platform. Well, it will be decidedly cold water that we will get from that source. Now, this party that is howling so for irrigation, why did they not nominate Roach for Governor? "No," they said; "Phil. is too old to be Governor." The trouble with Philip Roach was that he was too honest a man for them to have for Governor. [Applause.]

#### CONSTITUTIONAL CONVENTION.

Now, it has been a question in the politics of this State for the last three weeks, who put the fifth section in the Irwin bill, that makes it a crime punishable by fine or imprisonment in the county jail, for any man to sell or give away a railroad ticket. A man, under a strict construction of the law, could not buy a ticket and give it to his wife or his child. If he contracted the passage with the road he must use the ticket himself. But there is not a man that can be found in the State who can tell you how the section got in there. It is said Mr. Irwin didn't know anything about any of the sections in the bill—that they were drawn up on K street, and I am willing to acquit him. But here is a plank in the Democratic platform that you cannot find the man who put it in there in the next thirty days. Now, this shows exactly what the party is. The Constitution of the State provides that the Legislature may, at any session, submit to the people a proposition to have a Constitutional Convention to amend the Constitution. That if the proposition be submitted to the people and they vote "aye," the convention shall be called. There is provision also that the Constitution may be amended in another way. One Legislature may propose amendments, then they are published for three months before the next Legislature meets, and then if the next Legislature approves them, they are submitted to a vote of the people, and if they are voted for by a majority of the voters they are entitled to become a part of the Constitution. Now the Legislature passed a law calling on the people to vote on a Constitutional Convention. The Legislature passed certain amendments to the Constitution, and for what purpose? Why, they said the Constitution needs amendment. Now, the Democratic party say they are opposed to these amendments. They are on the record against them. The gentlemen on the Democratic ticket stand pledged against submitting these amendments to the people. One article provides that it is the duty of the Legislature to regulate the rates of fares and freights of railroads; another article provides in substance that no bonds of this State shall be issued to any corporation, or any stock taken in any railroad company; another proposition is that no railroad company shall have a Contract and Finance Company; another, that no two railroad companies shall consolidate in this State; another, that the same men shall not be Directors of different railroad companies and different telegraph companies; another, that there shall be no increase of fees or salaries after men are elected to office, as that celebrated Democratic Legislature, three or four years ago did; and another one—put in there for



the very purpose of protecting Sacramento city—is that the Capitol of this State shall never be removed from the city of Sacramento, except by the vote of the people of the whole State. [Applause.]

Now then the Democratic party holds in its platform that these amendments ought not to be adopted, and they are opposed to them. Where is the man that wrote the plank in their platform? I would make a little offer to bet—but it would hardly be proper to make it from the stand—but I will go a hat that they can't produce him. [Laughter.] It is perfectly infamous. Vote for their ticket and you vote for a pledge that the Capitol shall remain on wheels; and you vote for men who are pledged for none of the legislation that your necessities call for. It was sneaked into their platform, and to use the language of Senator McMurray, as he applied it to the Senate Freight and Fare bill—"It is a fraud upon the people of the State of California."

#### RECORD OF THE INDEPENDENT PARTY.

I told you I would say something about the record of the Independent party, but I have already spoken longer than I intended. [Cries of "Go on." "Go on."] I could go on with the record of the Democratic party; but it would be longer than the Bible. They are used up already and we are gathering here for their funeral. [Laughter.] Now, then, Mr. Irwin says that the Independent party has not a record. The first bill introduced into the Legislature—Assembly bill No. 1—passed at an early stage of the session. It was to reduce the pay of members of the Legislature and the salary of every officer in the State—as the Independent party said it would do. It went to the Senate, and what became of it? This enthusiastic reform party gathered it into its arms and held it there until every single reduction was out of it, and some additional increase put in. They sent it back to the Assembly to concur in. These amendments increased the salaries of officers and members of the Legislature over \$10,000 per annum, and the House refused to concur in the amendment. The bill went back to the Senate and at 11 o'clock—within one hour of the final adjournment of the Legislature—the so-called Democratic Senate voted to recede from those amendments and put themselves right upon the record. They voted for the bill as it passed the Assembly and then they kept the bill in their Senate, and Mr. Shackelford, their clerk, never notified the Assembly that the Senate had receded from their amendments. That is part of their record.

#### RETRENCHMENT OF THE INDEPENDENTS.

Now, Mr. Irwin says that Mr. Edgerton was the only Independent Senator in the Senate that worked for the people. This is an answer to some charges made against Mr. Edgerton, and now comes Mr. Phelps, with his slate and pencil, and he says that in one county expenses were reduced, and that county was Sacramento, and it was done by Mr. Edgerton. Now, somebody else is entitled to a little credit, and that is Senator Duffy. He stood with his colleague and they both got it through. We reduced the contingent expenses of the Assembly from \$90,000 odd, of the preceding session, to about \$45,000. There was not a chance for the Independent party to redeem a pledge that it had made, that it did not redeem. The saving in the county expenses of Sacramento will be demonstrated to you to be over \$20,000 a year. The county taxes of the county of Sacramento are lower than they have been for years. That is a part of the record of the Independent party, and it is a part of the result that we are proud of. We passed the irrigation bill; we did our best on the freight and fare question, and we came down on salaries, but we met with a Senate that would not pass anything except a railroad train. [Laughter and applause.] Now our State taxes are lower this year than they have ever been before. They are apparently higher, and why? Because we levied \$1,100,000 for the school fund. We say that the schools, being a State institution, should be sup

ported by the State, because if the money is collected by the State the cost of the collection is less. Now, if we take out that tax, the rate of the levy for this year would be but 46 cents. My friend Phelps is mistaken when he says there has been an increase in taxation. I think he is an honest old gentleman, and I listened to his speech with a great deal of pleasure. Most of it I indorse, and next winter most of his recommendations I will aid to carry through in the Senate. [Laughter.] There is no joke about that, boys. [Renewed laughter.] He was a little mistaken in some of them, of course. He compared the expenses of running our State government with the expense of other States, and he did not state that in those States the counties paid charges that are here made for State purposes. We pay a great deal for transporting prisoners, and if these fellows go on we will have to pay a great deal more. [Laughter.]

#### INSANE AND ORPHAN ASYLUM EXPENSES.

They find fault with our Insane Asylum. It is a fact that we have the best asylum in the United States, and that is something for us to be proud of. We cannot cut down the expenses of that institution. We are bound by the most holy obligations to care for those poor people, and if anybody wants them turned loose on the cold charity of the world, they will have to look for some other candidate for the Senate. I am not going to rob them to feed the Central Pacific Railroad.

We also assist in the support of private orphan asylums—some Catholic, some Protestant, and some non-sectarian in their character. We appropriate about \$83,000 a year for the support of these helpless little beings. What would they have done with them? Would they build up a great institution for them and put them under control of politicians for them to care for these tender children? I say, no. I say, leave them in the custody they are now. There are grave objections to a public asylum of that kind. It would not be managed by such people as manage them now, and in after years it will be a reproach to the men and women who had to be educated in them. Now the children are taken to asylums that their friends designate, and the State gives aid in their support. Would you turn loose, I ask you, these children, waifs upon the sea of life? If you do that they will become the lowest of your citizens. As they are now, under the careful training they receive, they will stand in the front rank and will be honor to you, and we will be proud to meet them in the front ranks of life. Every dollar that we put in there is money invested at a great rate of interest. It is a treasure laid up where neither moths nor rust can corrupt. [Applause.] If anybody is opposed to that system, let him vote against me. I do not intend to rob the insane, the deaf and the dumb, and turn loose the helpless children upon this community.

I say a great many of these reforms can be accomplished, and some that they are talking about cannot be done. Taxation can be reduced, salaries cut down and a saving made.

#### SHALL THE DEMOCRACY RESUME POWER.

Now, there is the record of the party that they ask the Independent party to step down and out for, and to let these old Bourbons come in—who never forget anything, and who are running about talking about repealing the thirteenth, fourteenth and fifteenth amendments and fighting the war over again. They would not fight when they had a chance, and want to fight now when they can't find anybody to fight with. I prefer to be with men like Lee—now dead—rather than to be running around the country prying into these old sores. Let these men into power again? In Ohio what are they doing? Why it is enough to make old Thomas Jefferson come out of his grave! They say they are in favor of inflation of the currency—paper money, irredeemable. We all want specie payment. They are doing

everything except to be honest to get office and get into power, and I tell you, gentlemen, here to-night, that I will stand by the Republicans, now, or any other party of men, who will say and who will take an oath before high heaven that no man shall ever be permitted to get into office, be it high or low, when he publicly proclaims the desire to repeal these amendments, and to open up this old trouble again. [Applause.] We must stand down and out and let the bourbons in. Why, down in South Carolina—we come to the other wing of this party—they had a Governor there and they called him Moses. I suppose they called him that because he delivered the County Treasurers from bondage. He went in with the County Treasurers, and they agreed to steal the money out of the County Treasuries and divide—one half to the Governor, and the other half to the treasurers. And when a treasurer was tried and convicted the Governor pardoned him out. The Governor was indicted finally, and he said, "Why, this thing won't do, you can't indict the Governor. It will break up the whole State." He did not believe in prohibitory laws. He believed in stealing, but he got to be pretty well known. One day he went into a restaurant and ordered a very nice meal. He was politely waited on by a gentlemanly colored waiter, and when he had set everything out before him, the Governor motioned the colored man aside and said, "You may retire now." The waiter said, "Excuse me, Governor, but I am responsible for the spoons!" This is what we will say to these gentlemen on the 1st of September—"It is all very nice, but we are responsible for the people's spoons."

LOCAL QUESTIONS.

Now, I had almost forgotten that this was a county meeting, and I was talking about State politics. We have presented to you in Sacramento county a good ticket, barring the head of it. [Laughter.] They are tried men; they have filled their positions honestly. For the first time in years in the Sheriff's office any document that properly belongs there can be found by any citizen. It is not good policy to turn good men out of office. Our County Clerk's office is run cheaper and better than it ever was before. I have a little objection to the District Attorney; he always convicts every one, and it is sometimes my lot to defend some one. But still I am willing to make a private sacrifice for the public good.

I was in favor of the present emergency of not nominating any ticket for the Legislature, either Senate or Assembly. I knew that this city stood to-day in almost deadly peril; that our great interests were in jeopardy, and if she could not have the best and the strongest delegation in the Legislature—men who would represent Sacramento county, who would make her best interests subservient to everything else, except that which would be dishonorable—if we did not have that sort of delegation we would have to shut up shop and break up our town. We have had a pretty hard fight as it is. People have been somewhat prejudiced against the city of Sacramento. They said we took a little too much from them at the fairs. Next fair everybody must make himself a committee of one and see that strangers are well treated; and next winter, when the Legislature meets here, we must resolve ourselves into a similar committee and treat the members of the Legislature well, or we will not have a town to live in.

A Constitutional Convention may be called. It must meet within six months after the bill passes the Legislature. The Constitution does not prescribe where it shall meet, and it will depend on your members of the Legislature whether it is held here or in San Francisco, or Oakland or elsewhere. And what would be the effect on this town if the Convention is called to meet at San Francisco? She has now under the new appointment 30 members of the next Legislature, and it will need your best men to hold them. You want an appropriation for your Folsom Branch State Prison, and how are you going to get it with Mr. Irwin for Governor, and Beck for



Secretary of State, both of whom are willing to take solemn oath that Folsom is the most unhealthy place in the State, and that there ought not to be a prison there, or anything else, for a white man to be there. Irwin worked and voted against the Branch Prison. If you don't believe it go and ask Mr. Hopper and Mr. French, and those gentlemen who worked the bill through. Irwin voted against the bill and Beck voted against it, and yet they are all telling you now that our prison is crowded. And whenever there is a proposition to build one some place else, they go against it. If you want to go with Irwin, go with him with your eyes open; go with the knowledge of the fact that to put men of that kind in power is to acquiesce in the sentiments of the Republican party and the Radical element of it, and the "bloody shirt" policy, for four years more; for I tell you that the men who made this war in defense of the Union will never see the Bourbon Democracy go into power again.

You want free bridges in this country, and free roads. We propose to purchase these bridges and make them free.

The meeting adjourned at a late hour, with three cheers for Mr. Haymond and the ticket.

**STATE TICKET,**  
**People's Independent Party.**

Election, Wednesday, September 1st, 1875.

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For Governor.....	JOHN BIDWELL,
	OF BUTTE.
For Lt. Governor.....	ROMUALDO PACHECO
	OF SAN LUIS OBISPO.
For Secretary of State.....	WILLIAM ROUSH,
	OF PLACER.
For Controller.....	LAUREN E. CRANE,
	OF SIERRA.
For Treasurer.....	FERDINAND BAEHR,
	OF SAN FRANCISCO.
For Attorney General.....	PETER VAN CLIEF,
	OF YUBA.
For Surveyor General.....	EDWARD TWITCHELL,
	OF SACRAMENTO.
For Clerk of Supreme Court.....	PAUL MORRILL,
	OF SACRAMENTO.

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**FOR MEMBERS OF CONGRESS.**

1st District.....	JOHN F. SWIFT.
2d District.....	CHAS. A. TUTTLE.
3d District.....	CHAS. F. REED.
4th District.....	J. S. THOMPSON.

**Judicial Election, October 20th, 1875.**

For Supt. of Public Instruction.....	J. M. GUINN,
	OF LOS ANGELES.





## REMARKS

OF

HON. WILLIAM HIGBY,  
OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES.

## PUBLIC CREDIT.

TUESDAY, February 23, 1869.

The House having under consideration the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin—

Mr. HIGBY said:

Mr. SPEAKER: I was highly interested in listening yesterday to the speech made by the chairman of the Committee of Ways and Means [Mr. SCHENCK] upon the bill now under discussion. There was much truth in what he said. His words were solid and full of meaning. I believe the country will thank him for his counsel and encouragement. The clouds that have so long enveloped this question are breaking away and the clear sky is visible.

This question has been debated heretofore as though we had no intercourse with other nations, as though paper would serve just as well as gold and silver for our currency.

We were to cease all financial intercourse with foreign nations the policy so often advocated in this Hall, to pay our debts in depreciated currency, would be a dangerous one to adopt. A debt so vast as our national debt makes it incumbent upon us to keep good and sound the credit of the Government; the citizen should have implicit faith in the integrity and fidelity of the Government. To keep that faith unimpaired it is our duty to aid it to fulfill in spirit and to the letter its pledges. No matter how much wealth the Government may possess, the confidence of the people, inspired by its integrity, is worth far more, and renders it stronger and more prosperous without it, than hoarded wealth with plighted faith can make it. A debt canceled with a less sum than was pledged to its payment is repudiation to the extent of the difference between the sum promised and the sum paid. That is, such an act in a Government would be repudiation, but in an individual or business firm it would be bankruptcy. Could a business man or firm,

possessing sufficient means to pay, who by fraud and chicanery should so cancel his or their debts, continue to have the confidence of the community thus injured? Why should a Government that violated its pledges continue to have the confidence of the people after such violation? The rule will hold good with nations as with individuals.

Mr. Speaker, I do not attribute the present embarrassed condition of our finances to the bad faith of the Government. The present indebtedness the nation could not avoid unless it had yielded up the best earthly boon to man—free government; neither could it in the emergency avoid a paper currency based upon credit. As yet it has kept good faith when and where able to do so. It has promptly paid the interest upon our great debt whenever it was due, and all its obligations it will perform unless unwise legislation causes it to falter. It is true our Treasury notes, circulating as currency, are at a discount, and will so continue to be until the Government can redeem the promise they carry upon their face, or until we return to specie payment. They are now accrued indebtedness, but will continue at a fair figure and make a very tolerable currency until redemption day arrives if our legislation shall be directed to strengthen credit and to the fulfillment of pledges as rapidly as possible. But as the bill now under consideration pledges the faith of the United States "to the payment in coin or its equivalent of all the obligations of the United States not bearing interest, known as United States notes, and of all the interest-bearing obligations of the United States except in cases where the law authorizing the issue of any such obligations has expressly provided that the same may be paid in lawful money or other currency than gold and silver," I propose to examine the subject somewhat in detail in the few moments I shall occupy, and show, if possible, the salutary effects the pas-

sage of this bill will have upon our credit, and how the Government will be enabled to lessen the burden now weighing so heavily upon it.

"The United States promise to pay." So the words run upon our Treasury notes, which are now the currency of the country. These notes are a part of our national debt, and are so classified in the monthly statements made by the Secretary of the Treasury. We must not forget that while they are serving a very good purpose as a currency the United States at some period of time must redeem them in coin. They bear upon their face the promise to pay the same as the bonds, and both must ultimately be canceled. Is one class of indebtedness to be paid in a different currency or valuation from another? Is one note taken up by the issuance of another specifying like amount a payment of the first? Does not the second note bear upon its face a promise to pay? So in attempting to pay bonds with notes, is not the payment still an indebtedness against the Government? The intent and purpose to pay or take up our Treasury notes with gold and silver coin is too clear, it seems to me, to admit of doubt, and I believe no one pretends to hold but that they are ultimately to be so paid. Gold and silver coin are the standard of value with all civilized nations. Our nation had no other at the time our Treasury notes were put in circulation and our bonds put on the market; the dollar named in each, unless qualified, is the dollar in coin.

Again, Mr. Speaker, we have in the most solemn manner, as a Government, since our paper currency and our bonds were issued, given our pledge that our national indebtedness shall be paid in the utmost good faith. When the fourteenth amendment to the Constitution of the United States was under consideration in Congress this question was duly considered, and in clear and unmistakable language became a prominent feature in that amendment. The language is as follows:

"The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned."

A two-thirds vote of this House and of the Senate, and the ratification of the Legislatures of three fourths of the States in the Union, have firmly imbedded this pledge in the Constitution. Is it possible that we can longer hesitate in arriving at the same conclusion? Ought there not to be a reconciliation of all differences of opinion under this clear and concise language of the fourteenth article? Who can doubt? Who will still continue to mar the credit of our Government by declaring that its debts are to be paid in paper, whose value is alone to be found in the fidelity of our Government to redeem it? The very effort to pay in this manner would at once bring with it dis-

honor and a discredit that would require many years of the best faith to remove.

Our national debt is over twenty-five hundred million dollars. The interest upon the interest-bearing portion annually is nearly one hundred and thirty million dollars. Whether we lessen the principal sum at present or not our efforts should be to lessen the interest as soon and as much as possible. How is this to be done? Those holding bonds are holding them under contracts which neither the Government nor bondholder can violate. The bondholder can exact no more interest than the bond specifies; neither can the Government fulfill the contract by paying less interest; so that the Government cannot issue new bonds bearing a lower rate of interest and compel the bondholders to surrender the old bonds and take in their stead new ones. Here we have no relief, and, indeed, there is no relief except through the well-established credit of our Government, and in this we will see and value its importance. All five-twenty bonds over five years old the Government has the right to call in, provided Government has the ability to do so. If there is gold in the Treasury to any amount after payment of interest that gold could be used to take up five-twenty bonds. But the experience thus far is that the Treasury furnishes very little more than enough to pay interest, and for the present no relief may be expected from that source. Wealth increases in our country more than six per cent. annually, which necessarily keeps up a high rate of interest. Government must look to a foreign loan. In Europe money is obtained at much lower rates; and if our Government will keep good faith, and can so induce the nations to believe, the interest upon our indebtedness can be much reduced and our financial burdens much lightened.

Mr. Speaker, we have sad evidence of the evil arising from divided opinion how our Government shall redeem its bonds. I need not repeat here what arguments have been used and opinions expressed in this Hall within the last fifteen months. They are known to the country. I shall hereafter criticise somewhat the opinion expressed that our bonds, the five-twenties, might legally be paid in Treasury notes. One thing is very clear, our debates have shaken the faith of people at home and abroad to our great detriment. The capital of the country is seeking for more lucrative investments than it finds in our Government bonds, from which cause they have been sold in foreign markets. Over five hundred million dollars of our Government bonds are now in the hands of foreign holders, purchased at great discount, at least thirty cents on the dollar, inflicting a loss upon our country of \$150,000,000 at least. British consols bearing three per cent. interest are worth in London over ninety cents—twenty cents on the dollar more than our Gov-



ernment bonds. Our bonds bear six per cent., the interest of each is payable in gold, and the interest on our bonds is promptly paid semi-annually when due; there has been as yet no failure on the part of our Government to pay whatever has accrued of its interest-bearing debt. Our bonds should have sold abroad at much higher rates, and they would have so sold but for the doubt raised by our divided councils how the Government would pay them. If our bondholders could have realized dollar for dollar \$150,000,000 would have been saved to the nation to aid in paying the public debt, to help bear the burdens of the Government, and to foster the business of the country.

A new country craves more capital than its ordinary growth supplies. An increase of capital by a foreign loan, to be thrown into the channels of business, would advance individual and national prosperity while aiding to lessen annual public expenses. From a foreign loan obtained at lower rates of interest than our bonds bear two other advantages would be derived—one would be in the reduction of interest to be paid annually, the other in the large amount of home capital set free to enter into the general business of the country. While there is some advantage arising from the fact that a very large portion of the interest accruing semi-annually upon our debt is paid to our own citizens, that advantage is in a measure balanced by the tying up or secluding from business channels of the capital upon which the interest is paid. If foreign loans could be made at three and a half to four per cent. interest, and our five-twenty bonds be redeemed rapidly, as under the law the Government could do until the \$1,600,000,000 now out were redeemed, the Government would save at the least calculation \$32,000,000 in gold annually. Should home capitalists desire to take the new loan at reduced rates of interest they should be allowed to do so; but few, though, would be likely to reinvest. If we as a nation have not now ready capital for all emergencies our country is full of undeveloped wealth that with marvelous rapidity becomes available. Every decade shows the available wealth more than doubled. Our Government being largely in debt, its credit should be upon a sound basis. It cannot dictate financially. If it has made a hard bargain it must still fulfill its obligations. Our national credit should be saved from dishonor. Fidelity and honor are above price. No system of logic can lead to the conclusion that a nation destitute of them can prosper or long exist except as a byword and reproach and the scorn of mankind.

Some have advocated in our debates the payment of bonds with Treasury notes. To enable the Government to pay as fast as they become redeemable one of two facts must exist: either the Treasury must have a large surplus from revenue collected, after defraying current

expenses of the Government and paying interest, to use for the purpose of redemption, or Congress, if it has the power, must authorize new issues of Treasury notes. Taxation is now a burden to the people, and every revenue bill brought forward amendatory of our revenue laws contains some provision to lessen the burden and still produce revenue enough to defray all ordinary expenditures. The study is to economize as much as possible, and so to graduate taxes as to be least burdensome and still produce sufficient revenue for current expenditures. Revenue from taxation will furnish no adequate means for an immediate redemption of bonds. What encouragement do we find in the proposition—new issues of Treasury notes? Congress claimed the power to issue Treasury notes and declared them lawful money at a time when the nation was in great peril. A rebellion of unparalleled proportions was striving to destroy us as a nation. Every means within the reach of the Government was called into requisition to aid in suppressing that rebellion. The Government was in need of money, and money it must have. Treasury notes were issued under law of Congress as a war measure and an inevitable necessity. By many the right to exercise the power then was denied. While I have no doubt that the necessity of the case gave the power, and that the act was a wise one, I do not believe that Congress would be in any way justified in doing a like thing now that we are at peace within our borders and with all nations.

Gold and silver constitute the true standard of value. They have been the basis of our currency since the foundation of our Government, and in adhering to this standard our Government has but followed in the path trodden by all civilized nations. We have commercial relations with all trading and commercial peoples. We exchange commodities with them; we buy of and sell to them. This interchange has grown to a necessity. Our ordinary needs call for foreign products. By commerce nations are enriched, and arts, sciences, and literature become a greater benefit to mankind. The standard of value must necessarily be the same or the nation that uses a lower or baser standard must be the loser, and the sooner all nations use the same coin at the same value the better. The intrinsic value of gold and silver gives great stability to circulating medium. It is a standard limited in amount. Its intrinsic value being so great, and its quantity so limited, fluctuations are far less frequent and financial prosperity is the rule with very rare exception. Paper currency is convenient and preferable when it will command the amount of specie it promises upon its face. Its value is in the certainty that there is on deposit coin sufficient to satisfy the sum named upon the paper. Coin and paper, then, have the same fixed value, the paper giving no increase to the



quantity of currency, but being used as a convenience, a representative of value, to facilitate exchanges. Paper currency used without a specie basis, but issued upon the credit of Government and but a representative of credit, is subject to fluctuation in quantity and value.

That nation must be largely in debt whose paper currency is issued solely upon the credit of its Government. The day of payment is future, not present, and no burden is directly felt, as no interest is to be paid. Such currency is easily obtained. Its cheapness encourages extravagance and wild financial schemes, to be followed by bankruptcy and financial ruin. It is well for us that we refuse to allow another issue of Treasury notes. The power is doubtful to do so and the policy a dangerous one. Paper currency has served its purpose in the hour of our nation's trial. Rapidly as possible we should return to the standard we left when the rebellion commenced. Our promises should be brought to par value; and to aid in hastening that condition of things let us unite in support of the measure before us. Let us declare to the nations of the earth, by solemn enactment, that our debt shall be measured and paid by that standard of value known and recognized by them. The sooner we do this the sooner we will undo much mischief already done by unwise debates. We will retrace steps by so doing that have led to financial loss and national discredit. The business

of the country will become more prosperous, capital will be set at work with far more certainty of success, and labor will be in greater demand and receive a better reward. I hope this bill will pass by a very large majority—the larger the better—for the good of the country and the speedy restoration of a sound state of the finances of our Government.

NOTE.—The following is the bill as it finally passed:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin or its equivalent of all the obligations of the United States, not bearing interest, known as United States notes, and of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money, or other currency than gold and silver. But none of said interest-bearing obligations not already due shall be redeemed or paid before maturity, unless at such time United States notes shall be convertible into coin at the option of the holder, or unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin. And the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin.

## SUFFRAGE CONSTITUTIONAL AMENDMENT.

WEDNESDAY, *March 3, 1869.*

On the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States—

Mr. HIGBY. Mr. Speaker, we are making haste slowly in the right direction. The Committee on Reconstruction have brought forward another amendment to the Constitution, and urged its favorable consideration in clear and forcible language. It declares that—

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

The fourteenth article of the Constitution clearly defines who are citizens of the United States:

"All persons born or naturalized in the United

States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside."

That is, all persons born in the United States of any and every race and color, whether once slave or always free, and also all persons foreign born, but who have been naturalized under laws of Congress or by treaty stipulations, and who are subject to the jurisdiction of the United States, are declared citizens by that article. The amendment proposed does not change the definition given in the fourteenth article of citizenship, but insures certain rights to persons so defined to be citizens, not expressed in any part of the Constitution. They shall not be denied the right to vote "on account of race, color, or previous condition of servitude." While the States are to be deprived of certain powers exercised upon the suffrage question no power is to be given to the United States,

for the restraint is to be upon both the General and State governments alike. It takes the power from both to deny or abridge the right to vote on account of the three conditions named. The opponents of this measure cannot with truth assert that power is to be centralized by its success, since power is not given but taken away from both Federal and State governments; but the power to control the elective franchise for other conditions than those named in the proposed amendment is allowed to repose where it now rests. There is little or no danger to be apprehended from the exercise of the powers remaining in the States upon this question, as they will incline to extend rather than restrain the rights and privileges of the citizen. By a comparison between the amendment proposed and the second section of the fourteenth article we find the first a great improvement upon the latter, and that the difference may the more readily be seen I will read the whole of that section :

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

Clearly there is an implied authority in the States, from the reading of this section, to control in a greater or less degree the right of suffrage; but that the States might be induced to extend the right to all classes of citizens the right of representation in Congress was confined to the voting class alone. This is very questionable power to leave in the control of the States. If the Constitution of the United States assumes to declare who are citizens it should also define the duties devolving upon them and the rights and privileges to be exercised and enjoyed by them. It will endanger the stability and durability of our Government to allow the States to control the question of citizenship, its duties, rights, and privileges, on any essential point, while the United States provide who are citizens and who may become such by laws of Congress and by treaty stipulations.

The second sentence in the first section of the fourteenth article seems to be full and explicit as to the rights conferred upon those declared to be citizens :

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

How comprehensive is this language ! It would seem that every right pertaining to citizenship was conferred; and yet the language of the second section implies that a State may deny or abridge the right of the citizen to vote. The amendment proposed will do away with much of the difficulty, confusion, and misconception that have grown out of the apparent conflict between the first and second sections of the fourteenth article, and will secure to the citizen the political rights to which he is entitled beyond legal or constitutional restraint, either State or national. Citizenship will rest where it should, at the foundation of the Government. Upon citizenship, grounded in immutable principles, free government should be established. The Constitution and laws are but the expressed will of the people; that is, the citizens.

We are slowly approaching a clearer understanding of what are practically the rights of persons. The question has been heretofore involved in mist and doubt. Theories founded in justice have been promulgated and have received the approval of all lovers of free government; but their practical application to mankind has been scouted when attempted, and they who have made the attempt have been derided as madmen or revolutionists.

Mr. Speaker, when were nobler and braver words ever uttered than those found in the Declaration of Independence ?

"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends it is the right of the people to alter or abolish it and to institute a new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness."

The public exigency called for outspoken, manly principles, such as addressed themselves to all men as founded in humanity and justice. How grandly does the declaration open :

"When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth the separate and equal station to which the laws of nature and nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation."

Then immediately follow the words previously quoted, namely, "We hold these truths to be self-evident," &c. Sir, do you think that three millions of people struggling to free themselves from the thralldom of a powerful Government, odious as it was unjust in its exactions, a people that in their heavy trial needed the favor and sympathy of mankind, would have declared any but just and true principles ? False principles then put forth as the ground of their warfare would have lost to our fathers the cause



for which they contended. Justice has in it the elements of strength, and doubly arms the people who war against oppression.

After seven years of privation and sacrifice and a heroism displayed unsurpassed by any people, independence was secured, and our present form of government soon thereafter established. The dangers that threatened had disappeared and peace had returned with its blessings. The favor and sympathy of mankind were not then so essential, nor was foreign alliance needed to aid in perpetuating the integrity of the new nation. The British Government encouraged the growth of African slavery in her American colonies, and when they had acquired their independence the institution of slavery was found so closely interwoven with the whole labor system in many of the States that an immediate change was deemed impracticable. While it was thought that time would work its decay under the Government just established and its removal after a lapse of time be the more easily effected the evil increased in its proportions and took stronger hold. How delusive was this hope! This institution, that at the close of the war of the Revolution and for many years thereafter was regarded as a necessary evil, even in the slave States as well as in the free, grew into favor and became a pet institution where it existed, and was there held to be of divine origin. Manual labor was nearly all performed by slaves. Society rested upon and was sustained by the institution in the slave States. Subtle and fascinating in its weakness, it rapidly increased to great power, and became alarming in its proportions, over-exacting in its demands, and ruled with despotic sway. Free institutions were crushed beneath its heavy tread. The more it fed the more ravenous it became. There was no manly independence and no free expression in its presence. Thriving business enterprise had no footing where the institution had sway. The slave was entirely subject to his master, and the master was entirely subject to the institution. Master and slave were both in bonds. The institution made the slave a brute and the master an instrument of cruelty. Reason, justice, and humanity were burned out, and the most hellish passions were nurtured.

All departments of Government were made subservient to its purposes. Everywhere its baneful influence was felt. Openly and insolently its work of corruption went on. Good men saw the magnitude of the evil, but were unable to retard its progress, for it became the power that resistance could not thwart. Equal rights, free government, the will of the people were themes for theorizing; but the system that held millions in bondage so tainted public morals, benumbed the consciences of men, and perverted their judgment that these themes did not advance beyond theories. The realization of the principles set forth in the Declaration

of Independence was more remote after a lapse of eighty-five years than at the time of its promulgation. Through the arts of peace there was no hope of reform. To human ken the dark cloud that had been so long gathering seemed to grow heavier and less penetrable. The wisest and most profound human philosophy was unable to point the way of escape. How could it, when Christian churches were dumb in the presence of this overshadowing power, and in some instances bowed in homage?

Rebellion, the legitimate fruit of the slave power antagonized by free institutions, broke forth with all the horrors of civil war. The death struggle between free government and the slave power came. One must die; both could not survive. The nations stood amazed at the dreadful havoc going on, and wondered what the end would be. Let us leave history to record the scenes of desolation and sorrow caused by the conflict and give all thanks to that Being Who aided our patriotic countrymen in the field, in council, and in their labors at home, in the common cause to victory over rebellion, and all thanks, too, that in that victory slavery perished.

Mr. Speaker, we can, if we will, now establish true principles of government. Slavery does not exist. We have no excuse for refusing to declare all citizens politically equal, unless our excuse be found in the prejudice fostered within us by the institution of slavery against those who were lately in bondage—a bondage which the bondman could not avoid and for which our countrymen were guilty. The lesson of the rebellion was terrible in its severity. Had the principles of the Declaration of Independence been carried out both in letter and spirit at the outset, the civil strife might have been avoided and our country much further advanced in wealth and power, and free government more firmly established, protecting and blessing more equally all classes of people. "Man proposes, but God disposes." From uncompensated labor man proposed to accumulate wealth. Who can count up the fearful losses the nation suffered during the conflict? Can figures make the estimate? The products of slavery would not compensate for the wealth used and destroyed. But figures would entirely fail when we attempt to estimate the loss from our patriot dead sacrificed to save the nation. We can avoid a repetition of the ordeal by holding sacred the rights inherent in citizenship. Power exercised to withhold rights from any class of citizens, "except for participation in rebellion or other crime," puts in danger the liberties of the people. Power so exercised would be for selfish ends, and not to establish justice.

In the fourteenth article we deny to the common felon and the traitor the right to vote. Why do we deny the right to these classes?



In part as a penalty and in part to disarm dangerous men of power. Shall we set over on the side with the felons and traitors any portion of our citizens and deny them this sacred right "on account of race, color, or previous condition of servitude?" Can we forget the devotion and fidelity of the colored race during the terrible struggle through which our country has just passed? They knew if the rebellion was crushed that slavery would be at an end. To what end have we already declared them to be citizens? What does it profit them to be citizens if they are not to enjoy the rights? They cannot secure to themselves civil rights through the empty name of citizen; their security will be in the protection which the ballot will give them. Will we, now that they have become citizens in name, leave them powerless politically? They would be a powerful and dangerous physical element in time of civil strife or foreign war if opposed to the Government. To attach them to the Government and make them its warm friends and firm supporters they must be allowed to share its privileges or immunities to the full extent, as well as required to share in bearing its burdens. In some way we must so treat the excluded class of citizens that they will become an element of strength at all times. They are in our midst, natives, knowing no other land, and here they will abide for all that we can do, and here they have a right to remain. Let us make them as much interested in the welfare of this Government as we are. This we can do by conferring upon them what we under like circumstances would be justified in demanding. It is not safe, in settling great principles of government, to be led to final action by prejudice. Our conclusions should be based upon unbiased judgment, rising above passion and prejudice. Let us not hesitate to do this wise and just act "on account of race, color, or previous condition of servitude" of those who are to be reached by this proposed amendment. It is true that much has been said against sharing political rights equally with the colored race; that it would necessitate too intimate social relations between the two races. Can the dividing line between the Anglo-Saxon and the African races be more completely obliterated than it has been in the

late slaveholding States under the slave rule? I will not attempt to answer an argument addressed to prejudice and passion, one that history has so incontestably answered. Political rights and social relations have but little to do with each other. I have no fears that placing the ballot in the colored man's hand will be his passport to all ranks and conditions of society. We of the same race, possessing equal political rights, have our social divisions, divisions to which all persons are amenable.

Mr. Speaker, fears have been entertained that the fourteenth article made citizens of all foreign-born persons who had become permanent residents within our country. A careful reading of that article will dispel all doubt and fear upon that point. None are declared citizens except native-born and naturalized persons. Neither that article nor this proposed amendment interferes in the least with our present naturalization laws or the power of Congress to alter those laws or to enact others upon that subject; nor is the treaty-making power provided for in the Constitution affected by them. Foreign-born persons naturalized as the Constitution provides have ever been regarded as citizens, and such has been their status. The fourteenth article clears away all doubt as to the status of a certain class of persons *native* born, and it was to clear away doubt and protect that class that the fourteenth article was proposed as an amendment to the Constitution.

Again, under the fourteenth article all persons not citizens are counted in making up representation. There is no restriction except where a class of *citizens* are denied the right of suffrage. In that case all of that class are left out in enumerating for representation. We are left with regard to foreign-born persons precisely where we were before any of the late amendments were made to the Constitution. The equal rights here demanded are for the *citizens* of the United States.

Let us dismiss all fallacious arguments, rise above selfish influences, and resolve to do what the times demand. It will be a proud day for free government when citizenship shall be well defined and clearly understood; when in its privileges or immunities it shall not only be beyond the assaults of constitutions and laws, but be itself constitution and law-maker.



22.222

# EMANCIPATION ORATION,

BY DR. EZRA R. JOHNSON,

AND

## P O E M,

BY JAMES M. WHITFIELD,

DELIVERED AT

*PLATT'S HALL, JANUARY 1, 1867,*

IN HONOR OF THE

### FOURTH ANNIVERSARY

OF

### **PRESIDENT LINCOLN'S**

### PROCLAMATION OF EMANCIPATION.

1864.

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SAN FRANCISCO:

PUBLISHED AT THE ELEVATOR OFFICE.

1867.



TO  
THE BRANNAN GUARDS;

THE FIRST SUCCESSFULLY ORGANIZED MILITARY COMPANY OF COLORED MEN IN  
CALIFORNIA,

THIS ORATION IS MOST RESPECTFULLY DEDICATED.

# ORATION

DELIVERED BY

DR. EZRA R. JOHNSON.

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MR. PRESIDENT, FRIENDS AND FELLOW-CITIZENS :—Time's measured tread, with all its blessings, has brought us to behold another happy New Year. We joyfully greet you ; millions of our race join in the chorus, and sound the loud timbrel, for our people are free. Assembled in this spacious and popular edifice, within whose walls the deep, mellow voice of our peerless advocate, the lamented Rev. T. Starr King was wont to be heard captivating his hearers by his matchless eloquence, and others of equal note, who from this forum have, with trumpet tones, denounced slavery and oppression. It is fitting, then, that we should once more consecrate this house to the service of a cause so sacred. These stars and stripes are emblems of freedom. We behold a beautiful spectacle—this immense gathering of the people, composed of the respectable and intelligent members of society, without regard to cast or color.

Many long and weary years have we labored to disabuse a corrupt and iniquitous public sentiment, that raised its impetuous head to the clouds, vainly hoping to thwart the design of "Him who is thundering in the Heavens for the oppression of the poor : for the sighing of the needy I will arise ; I will set him in safety from him that puffeth at him."

We love the earth on which we first drew the vital air, and beheld the light of Heaven ; and the same soil is sacred when we know it embraces the dearest relatives of life, and contains in its bosom the ashes of our ancestors, and on its surface the Temple of our God. The misfortunes that have been accumulating upon our heads, and threatened to over-

whelm us, are fast disappearing. Time, hallowed and gracious, now lifts the clouds which oppress us, and we will rise above our calamities.

We were delighted with the scene on the line of march of the long and imposing procession. The gorgeous display received encomiums that filled the heart with gladness. It was truly an ovation of which any people might be proud. All have done well. There was a marked feature in the procession that deserves a passing notice. The appearance of a well-drilled military company was a novelty that took the people by surprise. Their soldierly bearing attracted special attention, and received well-deserved praise. Their bronzed faces exhibited unmistakable resemblance of those brave boys in blue who went to the war, and during a long, well-fought battle, never took a prisoner. We give them a hearty welcome, and we hope that they may be overshadowed with the olive branch during life; but if our country is imperiled, may they, at the first tap of the drum, be willing and ready to obey the orders of their superior officers.

We are happy to meet you on this joyous occasion. Let us all join to make this Festival of Freedom worthy of the day and hour. The fires of liberty are burning on the altar of every heart. The fiat from the throne of eternal justice has gone forth, and our race, despite the machinations of our enemies, will soon enjoy all the heaven-born rights that a barbarous and inhuman perversion of justice has so long withheld from us. This is our natal day. We offer our congratulations on the great blessings which we derive from the act of which this day is the anniversary, and the blessings which Heaven has bestowed upon our country and people. Especially have we, the proscribed minority, the high priests of freedom, who have been battling for more than fifty years for the destruction of American slavery, the great enemy to the principle inaugurated on the first of January, 1863, the right of self-government, the right of every individual to life, liberty and the pursuit of happiness. Never had we occasion to thank God and take courage more heartily than to-day. God has been our leader, and we have passed through the Red Sea, and now rejoice that Canaan is in view.

We have met to celebrate the anniversary of the most



beneficent and memorable event in the history of the world—ancient or modern—the emancipation of 4,000,000 bondsmen by ABRAHAM LINCOLN, the first President of the FREE United States of America; the consummation of a great act of justice and humanity, the wisdom of which has compelled the civilized world to acknowledge its unparalleled magnitude.

One year after the immortal Lincoln had promulgated the Proclamation of Freedom, a most remarkable spectacle was seen in the City of Washington. The President's reception on New Year's Day had heretofore been exclusively allotted to meet white citizens in the executive mansion. The appearance of colored persons was an event that surprised and provoked the multitude of negro-haters, who crowd the doors on such an occasion. The people waited until the number of white visitors diminished, then they strengthened their resolution and made bold to enter the hall. Some of them were richly dressed, while others wore the garb of poverty, but alike intent on seeing the man who had set our people free. They pressed forward until they beheld the stately form of the President. An eye-witness says: "For nearly two hours Mr. Lincoln had been shaking the hands of the 'sovereigns,' and had become excessively weary, and his grasp became languid; but here his nerves rallied at the unwonted sight, and he welcomed this motley crowd with a heartiness that made them wild with exceeding joy. They laughed and wept, and wept and laughed, exclaiming through their blinding tears, 'God bless you!' 'God bless you, Abraham Lincoln!' 'God bress Massa Linkum!'"

We have not forgotten the sensation caused by the first sound from Sumter, when enthusiasm blazed high and bright; when bells rang out and flags waved, and the people rose as one man to cheer on the troops.

It was then the colored people assembled in public meetings in various parts of the country, and volunteered their services to aid our government in suppressing the rebellion. What reply did we receive? We were insultingly and disdainfully told that this is the white man's country and the white man's war; that our aid was not needed, and would not be accepted. We remember the battle of Bull Run, when the rout of our forces became general and complete, and a

retreat of the fragment of our army was determined upon, and the stragglers did push on from the battle-field to Washington without halting. Campaign after campaign followed with equal disastrous results, and our government began to look with distrust, fearful that the military science of our enemies would prove an impregnable barrier to their repeated attacks. The people had been so long governed by those who always ignored the rights of our race that nothing but rivers of blood, acres of maimed, ghastly, dying, and dead men, could convince our rulers that the vitalizing element must be introduced into the army before victory could be achieved. It was not decided that colored men could become an integral portion of the army until 1863. The initiative of raising colored regiments in the free States was taken by Governor Andrew of Massachusetts, and subsequently other free States sanctioned their enlistment. The enlistment of colored refugees in the rebel States was prosecuted without much difficulty, and soon we had near 200,000 men in the field. Their heroism and loyalty stands unrivalled. They have erected an unperishable monument that should illuminate the pages of history, and be read by the coming millions of our race, and be valued as the greatest legacy bequeathed to them through the sublime career of our noble braves. We have the gratification to know that President Lincoln acknowledged the value of our troops. He believed that the country could not be saved without their aid.

The abolition of slavery in the District of Columbia, the recognition of Hayti and Liberia, the repeal of the fugitive slave law, and the employment of colored men in the army, gave serious offense to the pro-slavery party of the country. When the President met some prominent western men in 1864, he asked them if the black men who then assisted the Union prisoners to escape were to be converted into our enemies, in the vain hope to gain the good will of their masters; if so, said he, we shall have to fight two nations instead of one. Mr. Lincoln was unwilling to conciliate the South by such means, and he considered their success inevitable, provided the labor of four millions of black men were placed into their side of the scale. He said, if they should abandon all the forts, then garrisoned by black men, and take two

hundred thousand men from their side, and put them in the battle field or corn field against them, they would have been compelled to abandon the war in three weeks. There were men base enough to propose to the President the policy to return to slavery the black warriors of Port Hudson and Olustee, and then win the respect of the masters they fought. Should I do so, said Mr. Lincoln, I should deserve to be damned in time and eternity. Come what will, he added, I will keep my faith with friend and foe ; but no human power can subdue this rebellion without the use of the emancipation policy, and every other policy calculated to weaken the moral and physical forces of the rebellion, and he rejoiced that freedom had given him 200,000 men raised on southern soil.

When the appeal to the noble men of our race was made to defend the nation's cause, its honor, and our firesides, we felt that very great sacrifices were required of them. The rebels had threatened immediate death to our men if taken prisoners. It needed strong minds and willing hearts to face that terrible issue. The wife was asked to give her husband, the mother her darling boy, the tearful youth his father, and all their loved ones. As they went forth we bid them God speed, and hasten the day when the country would be at rest.

Our hearts were filled with sorrow and sympathy for our brave men who fell on the battle-field. We did watch their course with intense and peculiar interest. for we believed their character abounded in those noble and excellent qualities of which the country and the times stood so much in need ; and when they were ordered to some very dangerous post, we feared that they would be cut off in the morning of their useful life. What heroic devotion, and how sublime the spectacle of these patriotic men offering their lives with such cheerful bravery, to achieve the freedom of our cruelly oppressed race.

When distinguished officers from the higher walks of life consented to enter upon the perilous duties and lead our forces, the military horizon seemed dark and lowery. These brave men, who were dearly beloved by their relatives and friends, and endeared for their gentle, refined, and conscientious natures, were willing to suffer, die, and be buried with



God's despised poor. It was then the timid, time-serving politicians of the North, and the secession sympathizers and negro-haters of the West, put forth their indignant protest against the policy to arm black men. Their reasoning was contradictory and absurd. They first declared that they would never countenance such an atrocity as to look on quietly and allow black Union men to shoot down white rebels. They said their feigned courage would ooze out before the glistening bayonets of the defiant enemy, and their very appearance on the battle-field would demoralize the whole army, as white men would never consent to fight side by side with those untutored sons of toil and oppression. They finally decided that the negro would not fight, that the project would prove a complete failure, and end in ruin and disgrace. They however did soon prove our persecutors to be false prophets and blind guides. Never in the history of the world can there be found a record of nobler achievements than was displayed by our Spartan heroes; and the historian will fail to find in the catalogue of our valorous defenders, a more pure and heroic soul than Col. Shaw of the 54th Massachusetts Regiment. There was a peculiar tie that bound him to life, for he had been married but a few weeks before he accepted the position assigned him. He arose above the nefarious custom of the times when he declared that it was his purpose to treat all gentlemen the same, whatever their complexion might be.

It may be remembered, on that memorable night Col. Shaw had command of the first storming column at the assault on Fort Wagner, and led the regiment in person, while the enemy opened upon them with shot, shell, and canister, which wounded many of their best officers and men; they faltered not, but cheered and shouted as they advanced—Col. Shaw springing to the front and waving his sword, shouted "Forward, my brave boys!"—and they were soon engaged in a hand in hand conflict with the enemy. He was one of the first to scale the walls. He stood erect to urge forward his men, and while shouting for them to press on, he was shot dead, and fell in front of the fort with twenty of his men lying dead around him.

"His gallant soul had passed away, his brave, young life was spent."

A colored citizen of Boston has generously contributed five hundred dollars to assist in the erection of an equestrian statue to his memory. Posterity will revere his name.

The color-bearer deserves a passing notice. Sergeant John Wall, of Company G, carried the flag in the First Battalion, and when near the fort, fell into a ditch. The guard could not stop for him, but Sergeant William H. Carney, of Company C, caught the colors, carried them forward, and was the first man to plant the stars and stripes upon Fort Wagner. He saw the men falling back; himself severely wounded in the breast; he brought the colors off, creeping on his knees, pressing his wounds with one hand, and with the other holding up the emblem of freedom. The moment he was seen crawling into the hospital with the flags still in his possession, his wounded companions, both black and white, rose from the straw upon which they were lying, and cheering him until exhausted, they could shout no longer. In response to this reception, the brave and wounded standard-bearer said: "I but did my duty; the dear old flag never touched the ground." That veteran and battle-scarred hero now fills an important office in the municipality of New Bedford, Massachusetts.

The 54th Massachusetts Regiment deserve much praise for their manliness in refusing the pittance of seven dollars a month that was offered to them by the government, and also the balance of their dues appropriated by the State of Massachusetts.

They did not heed the advice of friends or the threat of enemies, notwithstanding many of them had families to support, while their money had been withheld for more than six months. They voted not to accept a dollar until the justice of their claim was acknowledged by the Secretary of War, and sanctioned by Congress. The end of justice was attained, and they, together with all the colored volunteers, received the same compensation that was given to the white soldiers.

In the thunder storm and sharp crash of terrible battle, mid blood, carnage and death, a vision of childhood, of the sweet heaven-time of life, came over our colored heroes. They hoped it was death, coming as no king of terrors, but as

a beautiful flower-crowned child, bidding them welcome to the great halls of the laurel-wreathed dead—those who died for their country.

We gave twenty thousand precious lives of our race to save the life of the nation. We now demand of the government a fulfillment of its pledge. We will labor incessantly until we obtain all the rights and privileges that are enjoyed by the Caucasian race. We are prepared to solve the great problem that will establish our social rights. Equality before the law will unshaft the calumnious darts of our enemies. The ballot is soon to become our pedestal. The four corner-stones of our new edifice, upon which civil society is to be built, are the church, the school-house, the press, and the ballot. Then our career of usefulness will emit a vivid light. We will raise our standard high, and labor to become the peers of the dominant race.

If we read ancient history aright, there has been a period in the history of our race when they equalled, if not excelled, the other existing nations of the globe. How presumptuous in any other to declare our race intellectually inferior to any other portion of mankind. We need only look back a few hundred years to see in what a humble condition the Saxon race was placed. They have not much to boast of, for the time was when the proud Norman claimed him as a slave, and the name of Saxon dog, and his brass collar, are still to be found on the pages of English history.

Tell us not that we are intellectually inferior, when we belong to a race to whose ancestors a Solon, a Plato, a Pythagoras, were sent for instruction. Tell us not that we cannot inculcate knowledge because we wear the hue and hair of St. Augustine, of Syphaeum, of Cyren, of Origen, of Tertulleanus, those early fathers of the Christian Church, who were revered as the most venerable of men, and whose writings are laboriously pondered by our learned divines. Tell us not that our intellectual capacity is so limited that we are not qualified to cast an intelligent ballot, when Greece and Rome drew directly, and all modern Europeans and their descendants, indirectly, the sum total of their knowledge and literature from our race.



The employment of those assumed physiological and psychological expounders will soon expire by limitation, and the theoretical dogma of negro inferiority will become so unpopular that its advocates will be compelled to hold their peace, or mantle their faces in shame and confusion, under the genial rays of an enlightened public opinion. Free speech is the germ of our history, and the corner-stone of our power.

An event, showing the spirit of the times, deserves special notice. J. Milton Turner, of St. Louis, Missouri, a colored orator and fearless champion, has been canvassing the Southern States for "Equality before the law." He passed through several of these States like a blazing meteor. Upon his arrival at Little Rock, Arkansas, Governor Murphy ordered the firing of eleven guns, and went out to meet him in person. By invitation of the Governor, Mr. Turner addressed an audience of near two thousand in the rotunda of the Court House. His subject was "Equality before the law." He spoke for two hours and a half, amid the vociferous cheering of his audience. The report says, one would have thought, to see that ebony negro speaker on the stand with Governor Murphy and other dignitaries of the State, with a large majority of rebels in his audience, fearlessly demanding of Arkansas rebels the equality of all men before the law, that Little Rock had changed its geographical locality, and was now situated some where in Massachusetts.

It is now seventy years since the renowned navigator and eminent merchant, Capt. Paul Cuffee, of Westport, Massachusetts, felt aggrieved by being shorn of his right to vote. He was one of the wealthiest men in that town, and he was highly respected by the Society of Friends, of which he was a prominent minister. Capt. Cuffee offered his vote at a town meeting, and it was rejected. Believing that taxation should depend on representation, he refused to pay his tax. The town commenced a suit against him, and lost the case; an appeal was made to the Supreme Court of the State, and the Court decided in Capt. Cuffee's favor, and placed the great seal of approval upon the legal right of colored men to enjoy equal political privileges. Similar cases are now pending in New Jersey, and we feel sanguine that the Supreme Court of the United States will interpret the law, based upon

the civil rights bill, so as to secure to colored men equal political rights in every State and Territory in the Union.

Twenty-five years ago your speaker was one of the regularly nominated candidates of the Liberty Party from Bristol County, Massachusetts, for a seat in the Senate of that State. Our ticket was supported by a full vote, but we failed to elect. The friends of freedom and equal rights did not despair. They frequently placed the names of colored men on their ticket, with like results ; and now, after a long and well-fought battle with the ballot, we have gained a glorious victory. We rejoice with our friends in the east who have unfurled their banner, which may be seen floating high in the air, on which is inscribed in letters of light—" Equal and exact justice to all men."

They have set an example that will ere long be followed by the progressive party until every city and town will send forth their most intelligent and worthy men as legislators, regardless of creed or color.

Our enemies are wrathful, and they use epithets unsparingly on the devoted heads of our friends in Boston (the Athens of America) because the most aristocratic ward—containing the greatest amount of wealth and cultivated intellect—have elected a colored man to represent their interest in the Legislature ; and because Charlestown has sent Edward G. Walker, a colored lawyer, to the same place.

Lieutenant Charles H. Mitchell, he who "led the men to battle in a wild and desperate fight," is an industrious and intelligent printer, and a veteran soldier of the late war, who has won his epaulets by gallant service, and lost a leg in an engagement with the rebels before Richmond. He doubtless is a man of ability. No colored man could occupy a place of trust and emolument unless he possessed superior qualifications. We do assure our enemies that this act of wisdom and justice is only a drop before a copious shower. They must conquer their prejudices and become resigned to the action of the great progressive party, whose purpose it is to elevate the whole human race. Our ambition is not special, but geographical. We intend to struggle with all the power that mind and matter can produce, to fit ourselves for the higher duties of life. We are not content to remain supinely be-

cause a colored man has been admitted to practice in the Supreme Court of the United States, and colored jurymen to sit in courts of justice in the North. We expect to see the day when a colored man will occupy a seat as Associate Judge in the Superior Court, and an equally worthy white man as Chief Justice in the same tribunal.

The advanced step will be taken whenever a majority of voters become convinced that their interests will be best promoted by electing legislators selected from our people. There are persons present who will live to see colored men occupying seats as Representatives in Congress, and also fillign other places of honor in the gift of the people. It is the purpose of God to elevate all mankind. The cause of liberty will go forward until our race are brought to enjoy equal rights in all the land.

The colored people of the South highly prize divine worship, and they are not backward in their ecclesiastical relations. They will soon support their own schools. Their ability to acquire knowledge is conceded, and their faculty of discerning and distinguishing ideas is not surpassed by the whites. They will ere long be admitted to all the privileges of citizens, and they will need the ability to defend themselves. Every man's house is his castle, and every man should have a musket, because every man will be a soldier and a voter in this Republic.

There is no tenable theory of impartial suffrage which does not recognize the arming of every man in defense of the State. One of the most important amendments now necessary to our system is the universal omission of the word "white" in the clause regulating the militia. The colored man has shown, in the war, that he has the courage and the intelligence to fight; and in future we shall not hear of so many cowardly murders of freedmen by their old masters' daughters, when it is known that in every cabin there is a fowling-piece or a rifle, to keep hawks, or bears, or other beasts of prey from the door.

During the existence of legalized slavery, the opinion was stereotyped that the bondman, if liberated, would not work, as he possessed a constitutional love for ease, and an insuperable aversion to toil. The same objections were urged against the



Emancipation Proclamation by the rebel Commissioners at the famous interview on board the *River Queen* at Hampton Roads. They said that slaves, having always been accustomed to an overseer, and to work upon compulsion, if they should be suddenly freed, the act would precipitate not only themselves, but the entire Southern society into irremediable ruin ; as no work would be done, nothing would be cultivated, and both blacks and whites would starve. Mr. Lincoln replied : " He admitted that they ought to know a great deal better about the matter than he did, for they had always lived under the slave system." The quaint and characteristic episode about the Illinois drover and his swine, was both amusing and unanswerable. The rebels changed the conversation ; doubtless they were convinced that the President possessed firmness in the " right, as God gave him to see the right," even if they failed to endorse the righteous conclusions of that great and good man.

We have an abundance of overwhelming testimony that utterly demolishes the sophism of our enemies. Colored men are now engaged from the Potomac to the Rio Grande in agricultural interests, and in rebuilding many thousand houses. Without their mechanical skill and industry the waste places would not soon be filled as they now are with beautiful and substantial edifices, such as are being erected by our skillful artizans.

A fact in support of our statement is given by a gentleman in New Haven, Connecticut, who recently visited Richmond, Virginia. He says : " My ramble was upon the capital square. Here I met a few loungers of various grades ; they were all white—native, Irish, and German. The white laborers complained of no work. 'What! no work, when half of Richmond is being rebuilt?' 'Yes, no work ; for a white man has no chance here ; they will hire a dozen old slaves to one white man. Yes, sir ; there is no chance for a poor white man here.'"

Mr. Noyes had noticed, while viewing the new stores and warehouses going up in the midst of acres of ruins, that the laborers were nearly all black, and no part of the building was erected without their aid—stone-cutters, layers of stone and brick, carpenters, workers upon iron fronts, caps and cor-

nices, tanners, layers of slate, &c., &c., and that acres of buildings of the latest New York styles are now being erected over the burnt district, and a large majority of the laborers and artisans are black.

The acquisition of knowledge should be our great aim. Let us strive to equal and excel our brethren in the South. We need more mechanics and tradesmen among our people. Parents should not neglect to do their duty to their children. They must be willing to make many sacrifices to complete this design. We should not be content for our sons and daughters to walk in our footsteps, and engage in precarious employment, such as we have been compelled to pursue. We should give our children a liberal education, then a trade suited to their physical and mental capacity. These are two powerful incentives to action, and when acquired, they will lay a foundation for future usefulness. They will then possess a lever that will assist them to batter down the strong walls of pride and prejudice, that have stood so many years between us and our advancement. Their mechanical skill and intellectual qualities will possess intrinsic value, and open the highway to respectability, influence, and wealth. Then they will shed upon our community and people a scientific grandeur that is imperishable by time, and it will drown in oblivion's cup our moral impotency.

"Watchman, what of the night?" There is a significance in the recent verdict rendered by the people at the polls. With an aggregate majority of three hundred and seventy-five thousand votes, they have declared the great fact, that in future our government will be united in its policy, great in its strength, and no longer intimidated or impeded by the selfish arrogance of a petty planterdom. We have come to an era of great ideas and great creeds, such as rarely overtake nations in history. We have elected a radical Congress, that will crush the tyrannical rule of the conquered but unyielding aristocracy of the South, and raise to the topmost pinnacle of manhood every loyal subject that will seek protection under the defensive armor of our giant Republic. The great Union Party of Freedom remind one of Samson's wife. Having discovered the secret of President Johnson's strength, they have shorn him of his locks. The political knife and the tourni-

quet have maimed him for life. His apostacy, petty expediency, and small politics, will no longer be regarded as possessing any influence aside from the one-man power which his accident has been clothed with. The evils against us that he has propagated, by encouraging cruelty, hatred, ignorance, and depravity among unconverted rebels, will measurably disappear before the superior intelligence, industry, and humanity of our Congressional doctors, who can not be excelled in the knowledge of their profession. They will cauterize before they heal. The great principles of free labor, scientific reforms and culture, the enlargement of capital, the feeding and teaching the poor, will become a deep seated duty of the friends of progress, and they will labor to promote this great and holy end, which is, in reality, the shield of the poor, and the practical side of Christianity. Henceforth the Radical Union Party must rule. Must is a hard nut, but southern teeth must crack it, whether they wish to or not. They may shuffle and quibble, but to the decree of fate they must yield. Delay will render it more certain. The industrious freeman who now owns a little farm, and has realized one or two thousand dollars the past year, will soon need a plantation. The rural nobility will give place to higher nobility. Social culture, based on mud-sills, must make way for mud-sills themselves; for lo! the sills which they buried are not dead timber, neither do they sleep or rot; they were fresh saplings, and with the reviving breath of spring, and at the gleam of the sun of freedom, they will shoot up into brave, strong life.

We may revive our minds to the pleasant contemplation of the Radical Party ruling over a perfectly free continent, and we see in the future such a picture of national greatness as the world never before realized. The South will be willing and eager to engage the labor of our people, for there will be no cause in future for them to shun the southern clime. The native Americans, as ever directing the enterprise, one grand government, spreading from ocean to ocean, the whole every year growing more and more united through the constant increase of industrial interests and mutual needs. This, indeed, is a bright future to look forward to—and it is no idle dream. It will be something to be a colored American citi-



zen, when we can count seven million united freemen, and one hundred million in substantial wealth. Then this new generation of southerners will consider us something else than poverty-stricken, ignorant, and degraded serfs; they will learn that social merit is not conferred by being born white, on this or that piece of "sacred" dirt, but by a full development and exercise of the talents with which God has gifted us.

We are not unmindful of the debt of gratitude we owe the world long tried and true hearted friends of the oppressed. Our Wilberforce of America stands foremost in rank. This great philanthropist has given the labor of a long and eventful life in a warfare against the sum of all villanies; rising above any hope of gain or profit commensurate with the sacrifices he made in combatting such a stupendous wrong. We admire his glorious motto: "Our country is the world, and our countrymen are all mankind." The southern Legislatures offered rewards for his head amounting to fifty thousand dollars. The slave holders of Baltimore incarcerated him in a dungeon. Gentlemen of property and standing in Boston, upon collecting an infuriated mob, they broke up a female anti-slavery meeting, then they seized him, placed a halter around his neck, and dragged him through the streets; they threatened him with instant death, and his life was only saved by being cast into prison. For forty years he has been an able, uncompromising champion of the oppressed. We venerate the name of our liberator, Wm. Lloyd Garrison. He was faithfully and ably supported by a gentleman who has no superior in learning. He is a living encyclopedia of facts relating to the issues that have agitated the public mind during our long struggle. He has refused political preferment, such as his splendid talents might command. He has devoted his time and contributed generously to aid our cause. He is a true beacon light, warning the people to avert danger ahead. With flashing eyes, and a voice like notes of a golden trumpet, he peals forth mastery arguments in behalf of our race. Long live Wendell Phillips, Esq.

In proximity we find the immaculate, the most profound and conscientious statesman of our time. He was stricken down in the Senate chamber by a cowardly assassin for advo-

cating the cause of the slave. He has ever been as inflexible as the sturdy oak, and as true to the cause of humanity as the needle to the pole. We refer to nature's nobleman, Hon. Charles Sumner.

Another intrepid and incorruptible guardian of our rights may be seen leading the rank and file that belong to our forces, and are now engaged in defending the citadel of freedom. They may be surrounded with hostile troops, but the brave old commander will never capitulate. Although bending under the weight of three score and ten years, he has strength sufficient to beard traitors in their dens and shave A. Johnson in the hall.

"Where could they find another form so fit  
To poise with solid sense a sprightly wit"

as the Hon. Thaddeus Stevens, of Pennsylvania.

We will introduce you to an officer that has no superior in rank. He belongs to the vanguard who led the anti-slavery army, and who unfurled to the breeze a flag on which was inscribed in letters of light—"Immediate and unconditional emancipation—no protection to tyrants." From the pre-eminent position that this gentleman occupies, we hope he will CHASE a thousand traiters from their hiding-place, and put ten thousand secession pettifoggers to flight, should they demand admission to the tribunal over which he presides, without taking the test oath of allegiance.

During the war there was one officer that had the courage to hang a rebel who dared to insult our flag. He also refused to return the slaves that had escaped from their masters. He very justly and wisely decided that this kind of property, if used for carrying on the war, should become contraband. By this decision he established a system that saved many thousand bondmen from torture and death. This officer charged upon and captured a rebel breastwork, before Petersburg, that was led by a colored division, who suffered a loss of five hundred and forty-six dead and wounded soldiers. As they lay before him, he swore an oath to himself, that his right hand might forget its cunning, and his tongue might cleave to the roof of his mouth, if ever he refrained claiming justice for these men who had laid down their lives for their country—which to them had been a country of sla-

very—in the immortal hope that they might thereby bring freedom to their race. That commanding Major-General was the gallant Benjamin F. Butler.

Our portraiture would appear unfinished if we omit to notice the worthy martyrs who laid down their lives in attestation of their love for God's poor—one of which was "willing to have all the wealth that was acquired by the bondsman's unrequited toil of two hundred and fifty years, sunk in the depths of the ocean, and every drop of blood that was drawn with the lash to be paid with another by the sword; with malice towards none, and charity to all," he built for himself the first place in the affections of our race in this country. His memory and deeds are engraven on our hearts, and coming generations will chant with joy and gladness the song of thanksgiving and praise. Peace be to the ashes of the immortal Abraham Lincoln.

We all remember the great fright that twenty-one men caused throughout our country. The whole army of regulars and volunteers were on the alert. The forces were marshaled and sent to the scene of action. The invincible army that was entrenched in the fortress at Harper's Ferry, (which they held for twenty-four hours,) were overpowered and compelled by superior numbers to surrender at discretion. The conduct of those noble and heroic men, under the most severe trial, fully developed their pure devotion to the cause of human liberty and equal rights. They struck a blow that has since proved to be the death wound to the hydra-headed monster. The leader of the expedition was a bold man in doing right. He had a higher communion with his God than is the lot of men in this age and country. The tortures and cruelties that tyrants used, had no terrors for him. The shattered arm and cruel sabre-cut on his forehead reminded him that death would soon raise the veil of the glorious future. He believed that God's wrath would soon pervade the South, and undo every burden, break every yoke, and let the oppressed go free. The prophecy has been fulfilled to the letter. The late terrible war did verify the prediction in words of fire, blood, and carnage.

The crowning act of this Christian Patriot was performed when he stepped forth with a firm step and a steady eye,



evincing no signs of quaking, and he only stopped on the way to the scaffold a moment to kiss a negro child. It was the hero of Osawattamie, Captain John Brown.

A host of faithful, self-sacrificing friends have assisted us in our struggle for life and liberty. They have rendered a just account of their stewardship. Their acts are indelibly impressed on our hearts, and the good they have done for our race has been penned by the Recording Angel in that book whose leaves are sealed till the great day of judgment.

Watchman, behold the morning star ! We have observed the firmament as it glows with living sapphires, and have gazed as silent worshippers in the great Temple of Creation, while the night of our expectation was transparent and the moon was absent. We now rejoice and are made glad, because we have a glimpse into the interior of the Temple of Freedom, and we can form some slight idea of its grandeur and its glory. It is our promised hope. The Sun of Justice will soon appear, and its refulgent rays will warm our hearts; invigorate our minds, and enable us to enjoy the heaven-born rights that were so long withheld from us.

We have the key and we will unlock the doors of Old Harvard. Our children who may be prepared to enter that ancient institution of learning, and other colleges and seminaries, invite them to come and commune with its classic authors. They may drink freely from the fountain of knowledge, from whence their trickles softly draw a gentle crystal stream. We have no fear of the future. We are soon to occupy prominent places in the world of letters. We will be able to furnish men of erudition, such are qualified to present the flowers of rhetoric, the embellishment of fancy, and the refinement of literature. Already the "Atlantic Monthly," which is acknowledged to be the most popular magazine in the United States, and who employ the deepest thinkers and ablest writers, find it profitable to engage colored persons as contributors to adorn its pages.

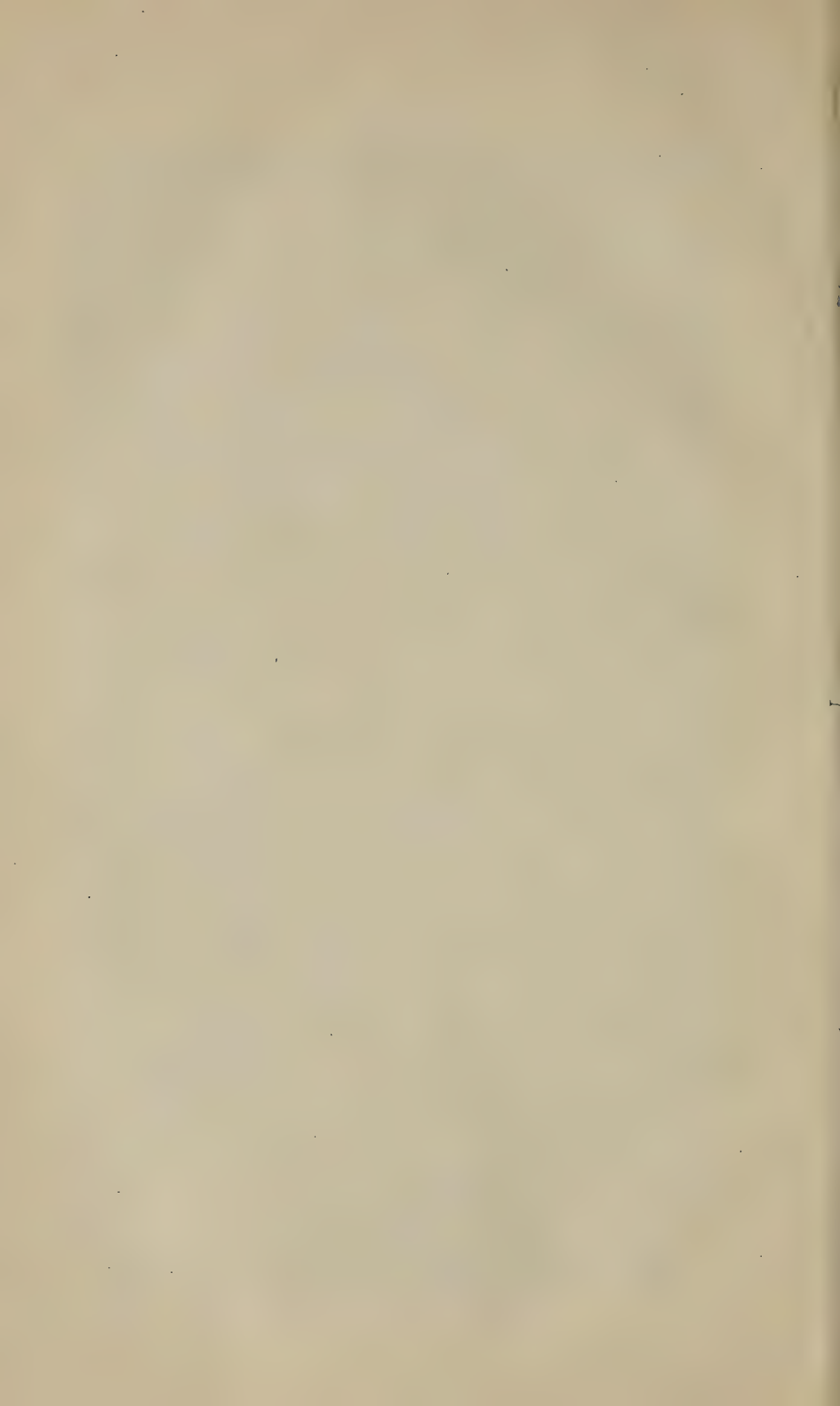
Colored men are now invited to lecture before the popular lyceum in the east. They draw full houses; winning compliments from the critics, and pleasing the most fastidious and scholarly listener; for they possess the voice, the manner, the command of speech, thought, and the imagination; and they

draw the attention of the auditors, as particles of steel are attracted by the magnet.

The world moves, and it moves fast, too. We send greeting: our sincere and heartfelt thanks to those liberty-loving members of Congress who have, by their votes, caused to be enacted a law that does remove the proscriptive barrier between colored citizens and the ballot. They have expunged from the statute a relict of barbarism, and the District of Columbia stands disinthrall'd, redeemed, and regenerated. The march of enfranchisement will go on, until every State and Territory have indorsed this principle of justice; thereby granting to colored men equal political privileges. Then taxation will go hand in hand with representation, and a united people will rejoice, that they live in "the land of the free and the home of the brave," whose fundamental laws are unequalled by any other government in the civilized world. All hail, the patriotic statesmen of the thirty-ninth Congress!

Venerable sires, aged matrons, young men, and blooming maidens, we hope that you have caught the inspiration; "an hour lost is an opportunity for disaster," said the great Napoleon. We entreat of you to renew your vows, and dedicate your lives to the well-begun work, that must be finished. We rely on the justice of our cause. In legal parlance, we have summed up our case, and submit it to the candid and indiscriminate consideration of the American people. They will assuredly render a verdict that will sustain us in our conclusion. We are Americans in every sense of the word—Americans by birth, genius, habits, and language. We are dependent upon American climate, American element, American government, and American manners, to sustain our American bodies and minds. We expect to enjoy all the rights and privileges of Americans—governmental, ecclesiastical, civil, social, or elemental. The claims we set up are claims of Americans, founded on an original agreement of the contracting parties, and there is nothing to show that color is a consideration of the agreement.

Our cause is sacred and divine,  
With labor and genius combine,  
We plant in human heart the seeds  
That shall grow to noble deeds;  
Our manhood ever more shall be,  
For God has set our nation free.





TO P. A. BELL, ESQ.,

A PIONEER IN THE INTELLECTUAL ELEVATION OF HIS RACE,

THESE LINES ARE RESPECTFULLY INSCRIBED BY THE AUTHOR.

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## A POEM

*Written for the Celebration of the Fourth Anniversary of President  
Lincoln's Emancipation Proclamation.*

BY J. M. WHITFIELD.

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More than two centuries have passed  
Since, holding on their stormy way,  
Before the furious wintry blast,  
Upon a dark December day,  
Two sails, with different intent,  
Approached the Western Continent.  
One vessel bore as rich a freight  
As ever yet has crossed the wave ;  
The living germs to form a State  
That knows no master, owns no slave.  
She bore the pilgrims to that strand  
Which since is rendered classic soil,  
Where all the honors of the land  
May reach the hardy sons of toil.  
The other bore the baleful seeds  
Of future fratricidal strife,  
The germ of dark and bloody deeds,  
Which prey upon a nation's life.  
The trafficker in human souls  
Had gathered up and chained his prey,  
And stood prepared to call the rolls,  
When, anchored in Virginia's Bay—  
His captives landed on her soil,

Doomed without recompense to toil,  
 Should spread abroad such deadly blight,  
 That the deep gloom of mental night  
 Spreading its darkness o'er the land,  
 And paralizing every hand  
 Raised in defence of Liberty,  
 Should throw the chains of slavery  
 O'er thought and limb, and mind and soul,  
 And bend them all to its control.  
 New England's cold and sterile land  
 Gave shelter to the pilgrim band ;  
 Virginia's rich and fertile soil  
 Received the dusky sons of toil.  
 The one bore men whose lives were passed  
 In fierce contests for liberty—  
 Men who had struggled to the last  
 'Gainst every form of tyranny.  
 Vanquished in many a bloody fight,  
 Yet still in spirit unsubdued ;  
 Though crushed by overwhelming might,  
 With love of freedom still imbued,  
 They bore unto their Western home,  
 The same ideas which drove them forth,  
 As houseless fugitives to roam  
 In endless exile o'er the earth.  
 And, on New England's sterile shore,  
 Those few and feeble germs took root,  
 To after generations bore  
 Abundance of the glorious fruit—  
 Freedom of thought, and of the pen,  
 Free schools, free speech, free soil, free men.  
 Thus in that world beyond the seas,  
 Found by the daring Genoese,  
 More than two centuries ago  
 A sower wandered forth to sow.  
 He planted deep the grains of wheat,  
 That generations yet unborn,  
 When e'er they came to reap and eat,  
 Might bless the hand that gave the corn ;  
 And find it yield that priceless bread  
 With which the starving soul is fed ;  
 The food which fills the hungry mind,  
 Gives mental growth to human kind,  
 And nerves the sinews of the free  
 To strike for Truth and Liberty.

Yet, planted at the self-same time  
     Was other seed by different hands,  
 To propagate the deadliest crime  
     That ever swept o'er guilty lands—  
     The crime of human slavery,  
     With all its want and misery—  
     The harrowing scenes of woe and pain,  
     Which follow in its ghastly train.  
 The same old feud that cursed the earth  
     Through all the ages of the past,  
 In this new world obtained new birth,  
     And built again its walls of caste,  
 More high and deep, more broad and strong,  
     On ancient prejudice and wrong.  
 The same old strife of every age,  
     Inherited by son from sire,  
 Which darkens each historic page,  
     And sends a discord through the lyre  
         every bard, who frames his song  
     In praise of Freedom, Truth, and Right,  
 Rebukes the gathered hosts of wrong,  
     And spreads the rays of Freedom's light—  
     That strife, long fought in Eastern lands,  
     Was transferred to the Western strand.  
 The same old seeds of endless strife,  
     Deep in the Nation's inmost life  
     Were sown, to yield in after years  
     A plenteous crop of blood and tears.  
 'Twas here the dragon's teeth were sown,  
     And crops of armed men sprang up;  
 Here the Republic, mighty grown,  
     Drank deep rebellion's bitter cup;  
 Here, where her founders sowed the wind,  
     They reaped the whirlwind's furious blast—  
 Proudly refusing to rescind  
     The deadly errors of the past,  
 They drew the sword, by deed and word  
     To rivet slavery's bloody chain,  
 And, slaughtered by th' avenging sword,  
     Their bones strew many a battle plain.  
     The strife of aristocracy  
     In conflict with democracy,  
     Was here renewed, with greater zeal,  
     And danger to the common weal.  
 One century and a half had flown  
     When Freedom gained the first great fight;



Defied the power of the throne,  
 And bravely proved the people's might,  
 When banded in a righteous cause,  
 To overthrow oppressive laws.  
 'Twas then, when struggling at its birth,  
 To take its proper place beside  
 The other Nations of the earth,  
 The rule of justice was applied;  
 And all mankind declared to be  
 Inheritors of Liberty;  
 With right to make their freedom known,  
 By choosing rulers of their own.  
 But when it came t' enforce the right,  
 Gained on the well-contested field,  
 Slavery's dark intrigues won the fight,  
 And made victorious Freedom yield;  
 Giving each place of power and trust,  
 To those who, groveling in the dust,  
 Seek to extend the giant crime  
 Of Slavery through all coming time.  
 The victory won at fearful cost,  
 Over a mighty monarch's host,  
 By which oppression's power seem'd foiled  
 On the Atlantic's western shore,  
 And those who through long years had toiled,  
 The burden of the battle bore,  
 In order that this land might be  
 A home and refuge for the free,  
 Were doomed to see their labor lost—  
 Their victory won at fearful cost,  
 Over oppression's mighty power,  
 Surrendered in the trying hour;  
 And made to strengthen slavery's hand,  
 Ruling with iron rod the land.  
 The power the warrior's hand had lost,  
 The politician's skill restored;  
 And slavery's votaries could boast  
 Intrigue was mightier than the sword.  
 But fraud and force in vain combined  
 To check the progress of the mind;  
 And every effort proved in vain  
 T' enslave the cultivated brain.  
 The same ideas the pilgrim's brought  
 When first they crossed the wintry wave,  
 Spreading throughout the land were fraught  
 With light and freedom to the slave:

And hence where slavery bore the rule,  
 It labored to suppress the school,  
 Muzzle the tongue, the press, the pen,  
 As means by which the rights of men  
 Might be discussed, and Freedom's light  
 Break up the gloom of slavery's night.  
 Efforts which, in a better cause

Had brought their authors deathless fame,  
 Were made to frame oppressive laws,  
 And to arouse, excite, inflame,  
 The vilest passions of the throng,  
 And stir that bitter prejudice  
 Which makes men blind to right and wrong,  
 And opens wide that deep abyss  
 Where pride of rank, and caste, and race,  
 Have left such marks of bitter hate,  
 As nought but time can e'er efface,  
 To foment discord in the State.

But vain their efforts to control  
 The aspirations of the soul ;  
 For still a faithful few were found  
 Who would not bend the servile knee,  
 But in each conflict stood their ground,  
 And boldly struck for Liberty.

From year to year the contest grew,  
 Till slavery, glorying in her strength,  
 Again war's bloody falchion drew,  
 And sluggish freedom, roused at length,  
 Waked from her stupor, seized the shield,  
 And called her followers to the field.

And at that call they thronging came,  
 With arms of strength, and hearts on flame ;  
 Answering the nation's call to arms,  
 The northern hive poured forth its swarms ;  
 The lumbermen of Maine threw down  
 The axe, and seized the bayonet ;

The Bay State's sons from every town,  
 Left loom and anvil, forge and net ;  
 The Granite State sent forth its sons,  
 With hearts as steadfast as her rocks ;

The stern Vermonters took their guns,  
 And left to others' care their flocks ;  
 Rhode Island and Connecticut

Helped to fill up New England's roll,  
 And showed the pilgrim spirit yet  
 Could animate the Yankee soul.

The Empire State sent forth a host,  
 Such as might seal an empire's fate ;  
 Even New Jersey held her post,  
 And proved herself a Union State.  
 The Key-Stone of the Union arch  
 Sent forth an army true and tried ;  
 Ohio joined the Union march,  
 And added to the Nation's side  
 A force three hundred thousand strong,  
 While Michigan took up the song ;  
 Wisconsin also, like the lakes,  
 When the autumnal gale awakes,  
 And rolls its surges on the shore,  
 Poured forth its sons to battle's roar.  
 The gallant State of Illinois  
 Sent forth in swarms its warlike boys.  
 On Indiana's teeming plain,  
 Thick as the sheaves of ripened grain,  
 Were soldiers hurrying to the wars  
 To battle for the Stripes and Stars.  
 From Iowa fresh numbers came,  
 While Minnesota joined the tide,  
 And Kansas helped to spread the flame,  
 And carry o'er the border side  
 The torch the ruffians once applied  
 When fiercely, but in vain, they tried  
 The people of their rights to spoil,  
 And fasten slavery on her soil.  
 From East unto remotest West,  
 From every portion of the North,  
 The true, the bravest, and the best,  
 Forsook their homes and sallied forth ;  
 And men from every foreign land  
 Were also reckoned in that band.  
 The Scandinavians swelled the train,  
 The brave Norwegian, Swede, and Dane,  
 And struck as though Thor rained his blows  
 Upon the heads of haughty foes ;  
 Or Odin's self had sought the field  
 To make all opposition yield.  
 Italia's sons, who once had cried  
 Loud for united Italy,  
 And struck by Garibaldi's side  
 For union and equality—



Obtained another chance to fight  
 For nationality and right.  
 The Germans came, a sturdy throng,  
 And to the bleeding country brought  
 Friends of the right, foes of the wrong,  
 Heroes in action as in thought,  
 Sigel, and Schurz, and many others,  
 Whose names shall live among the brave,  
 Till all men are acknowledged brothers,  
 Without a master or a slave.  
 Ireland's sons, as usual, came  
 To battle strife with shouts of joy,  
 With Meagher and Corcoran won such fame  
 As well might rival Fontenoy.  
 Briton and Frank, for centuries foes,  
 Forgot their struggles, veiled their scars,  
 To deal on slavery's head their blows,  
 Fighting beneath the Stripes and Stars.  
 From the Atlantic's stormy coast,  
 Unto the broad Pacific's strand,  
 Came pouring forth a martial host,  
 From every portion of the land.  
 They came, as flocking sea birds swarm,  
 Whene'er the cloud-king mounts his throne  
 And calls the warriors of the storm  
 To sweep the earth from zone to zone.  
 They came as come the rushing waves  
 When o'er the sea the tempest raves.  
 They came as storm clouds quickly fly  
 When lightnings flash along the sky,  
 And on the Southern plains afar  
 Soon burst the thunderbolts of war.  
 In quick and fierce succession fell  
 The furious showers of shot and shell.  
 Though East, and West, and North combined,  
 And foreigners from every land  
 With all that art and skill could find,  
 They could not crush the rebel band.  
 They clung unto th' accursed thing,  
 That which they knew accursed of God,  
 Nor strength, nor skill could victory bring  
 With that accursed thing abroad.  
 When Abraham, the poor man's friend,  
 Assumed the power to break the chain.

Obey the Lord, and put an end  
 To slavery's dark and bloody reign,  
 To make the nation shield from harm  
 Its loyal sons of every hue,  
 In its defence receive and arm  
 All those who to its flag were true,  
 He found the touchstone of success,  
 For then Jehovah deigned to bless,  
 And smile upon the nation's arms,  
 And give it rest from war's alarms.  
 Thus men of every land and tongue,  
 Of every station, every hue,  
 Were found the Union hosts among,  
 Enlisted with the boys in blue;  
 And all mankind should freely draw  
 The prize for which their lives were given;  
 "Equality before the law,"  
 To every person under heaven.  
 As storms and tempests pass away,  
 And leave the sun's enlivening light,  
 Our war-cloud brought the opening day  
 To slavery's long and gloomy night.  
 As storms and thunder help to clear  
 And purify the atmosphere,  
 E'en so the thunders of the war,  
 Driving malaria afar,  
 Have purged the moral atmosphere,  
 And made the dawn of freedom clear.  
 From swamps and marshes left undrained  
 Malarious vapors will arise,  
 From human passions, unrestrained,  
 Rise fogs to cloud our moral skies:  
 So now, from portions of the land  
 Where lately slavery reigned supreme,  
 Its conquered chiefs together band,  
 Concocting many an artful scheme,  
 By which Oppression's tottering throne  
 May be restored to pristine power,  
 And those who now its rule disown  
 Be made submissive to its power.  
 The self-styled Moses brings the aid  
 Of power and place to help them through,  
 To crush the race by him betrayed,  
 And every man who, loyal, true,  
 And faithful to his country's laws—  
 Declines to aid the tyrants cause.

Our real Moses, stretched his rod  
 Four years ago across the sea,  
 And through its blood-dyed waves we trod  
 The path that leads to Liberty.  
 His was the fiery column's light,  
 That through the desert showed the way,  
 Out of oppression's gloomy night,  
 Toward the light of Freedom's day ;  
 And, like his prototype of old,  
 Who used his power, as Heaven had told,  
 To God and to the people true,  
 Died with the promised land in view.  
 And we may well deplore his loss,  
 For never was a ruler given,  
 More free from taint of sinful dross,  
 To any Nation under Heaven.  
 And ever while the earth remains,  
 His name among the first shall stand  
 Who freed four million slaves from chains,  
 And saved thereby his native land.  
 Though Achans rise within the camp,  
 And covet slavery's cursed spoil,  
 Invent oppressive laws, to cramp  
 The energies of men who toil  
 Through hardship, danger, sickness, health,  
 To add unto the Nation's wealth—  
 Some Joshua shall yet arise,  
 Whose hand shall extirpate the seeds  
 Sown by this worst of tyrannies,  
 Which ripen into bloody deeds  
 Such fiendish murders as of late  
 Occur in every rebel State.  
 While Freedom falters, once again  
 The fogs and mists begin to rise,  
 And cast their shadows o'er the plain,  
 Vailing the issue from our eyes,  
 On which the nation yet must stand,—  
 Impartial freedom through the land.  
 Yet once again our moral air  
 Is tainted by that poisonous breath,  
 Which Freedom's lungs can never bear,  
 Which surely ends in moral death.  
 Then let the people in their might  
 Arise, and send the fiat forth,  
 That every man shall have the right  
 To rank according to his worth ;  
 That north and south, and west and east,  
 All, from the greatest to the least,  
 Who rally to the nation's cause,



Shall have the shield of equal laws.  
Wipe out the errors of the past,  
Nursed by the barbarous pride of caste,  
And o'er the nation's wide domain,  
Where once was heard the clanking chain,  
And timorous bondmen crouched in fear,  
Before the brutal overseer,  
Proclaim the truth that equal laws  
Can best sustain the righteous cause ;  
And let this nation henceforth be  
In truth the country of the free.

[During the delivery of the Oration and Poem the speakers were frequently interrupted by loud bursts of applause.]

SPEECH

OF

HON. JAMES A. JOHNSON,  
OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES, FEBRUARY 8, 1868.

The House being in the Committee of the Whole on the state of the Union—

Mr. JOHNSON said:

Mr. CHAIRMAN: The condition of the country, the legislation recently perpetrated by Congress, and the acts threatened, altogether furnish my excuse for attempting to speak at this time. The spirit and substance of our institutions have been assailed, the old Union of the Constitution is rapidly passing away, and disunion by force is attempted instead. But in my humble judgment that force will soon be broken, when a return to constitutional government and a restored Union shall bless and prosper the country. The tyranny which loads the people with unbearable taxation and enchains the white citizens of ten States must soon pass away; the recent elections furnish sufficient proof of the fact, for the foundation of a belief that the results wished for may be attained—for hope. In all those elections the issue was squarely taken between the white man's constitutional government and negro military despotism—the Democracy leading on one side, Radicalism the other. All over the land where the contest has been made shouts of triumph have gone up from the ranks of those who fought on the side of constitutional liberty, while the cohorts of negro rule have been everywhere put to disgraceful flight. As the blood of Abel cried out from the ground, so cried the blood of our countrymen, unnecessarily shed, from the sacred earth round about where the charter oak once stretched its limbs to Heaven; that cry rested upon the ears of the Democracy of old Connecticut, who, in imitation of the Divine Master, cursed, branded, and drove out the fratricidal party. The same cry was heard in Kentucky, California, Ohio, Pennsylvania, and then in New York, and in all these noble States the Democracy followed the heroic example set them by Connecticut, and sent out as wan-

derers in the earth, looking for place and spoils, the fratricidal party.

The President's messages vetoing the reconstruction bills—the ablest papers ever written by a statesman—were not enough to crush the monsters against which they were hurled. But the people have declared for the right, for the President, for constitutional liberty, for a white man's government, and against negro rule and military despotism.

But as yet the people's victories have brought the country but little fruits other than that intense happiness which proceeds from a knowledge that our country is right, that it can and will save itself from ruin. No; our victories have not yet broken the death-grip with which the destroyers seek to strangle American liberty. For while we speak, by Radical direction the very vitals of republican government are being torn from the body of ten sovereign States, while Radicalism, in grim triumph, with despotic tread, tramples upon and tears to fragments the Constitution of our country, in total disregard of the rights of the people. But their time for evil is short, for, in my judgment, the recent elections are nothing to what will follow next fall—nothing more than the gentle breeze which always precedes the mighty tempest.

We should, we will, cheerfully bear the odium of loving the Federal Constitution and the white man's Government established thereby; for we labor for the good of all, the victors no more than the vanquished, believing that between our countrymen there can be no division of legal rights and benefits. In the coming contests for our dearest rights we shall meet our countrymen with arguments, reason, and the freeman's ballot, not with murderous implements of war. But we shall not falter in our defense of the Constitution, never cease to plead for the sacred old instrument. Aye, we will do more; we will swear before God and our country that he who speaks lightly of the

Constitution is an enemy, but too mean to be feared. We will not defend the Constitution defiantly, but firmly, and with an honest hope of saving it. However much it may be disparaged, yet it is the work of our revolutionary sires, the work of those who loved liberty above all things else. Through it we get back near our ancestors; by it we have this Congress, did have and will have a Union, did have and will have a white man's government of laws; and we had prosperity, peace, and happiness under it; these we hope to have again.

Then let us brand every man who would bring into disgrace or disregard the plain provisions of this sacred instrument as an enemy to humanity—not as an enemy to be punished, but to be brought into fair view before the country, so the people may strip all such of power and record their names with their errors as monuments of perfidy, cruelty, and baseness, by which the future statesmen in our country may learn this lesson.

To err in judgment is a misfortune common to all men; to err without judgment is common to radicalism and a misfortune to our country. The majority here, in their insane attempts to perpetuate themselves in power, have ignored the Constitution altogether, and tried to cover the minority with disgrace for professing attachment to its provisions. All this, too, with a full understanding that without its plain letter and spirit we have no Government other than a despotism limitless as the boundless universe.

Ignoring its existence entirely, their party has illegally, without accusation or trial, thrown our fellow-citizens into prison for expressing their opinions upon matters pertaining to their own rights. They have made the writ of *habeas corpus* worse than a mockery.

Free speech could not be indulged in by any unless they were base enough to sing praises to old John Brown. Our free presses were thrown out of four-story windows, while Radical major generals stood at the street corners offering encouragement to the mobs by telling them that in their acts of violence and destruction they had only anticipated the official purpose of vandalism. They have exalted cowardice and treachery; they have sought to accomplish great national results by a deliberate, cold-blooded system of bribery and corruption; they deliberately, in time of profound peace, by military commission, sat in judgment upon the lives of the most unfortunate of our country, and as deliberately those unfortunates were put to death; they have denied the right of representation to and questioned the existence of sovereign States of this Union when such States elected Democrats to office; they have loaded us with an unbearable system of taxation, and they have tried to reduce the white population of this country to a level with the African and other inferior races; they have pronounced the

Democratic party dead, and arraigned the President for declaring the country could never be saved except through the instrumentality of that party; they have arraigned the President for declaring that peace existed in our war-stricken country; because they say Congress alone has power to declare war and conclude peace. Did Congress declare war against the South? If so, against what part of the South, when, and how? Congress could not declare war against any of the United States, treating them as enemies. If so the Federal Government can levy war against the citizens of this country—an idea equally monstrous with Radicalism.

It is true, a state of war did actually exist, and President Lincoln acted without authority from Congress, as was his lawful right, in providing for the exigencies on his side of the war. It is true, also, that Congress recognized the fact that war existed; but this was without a declaration of war on the part of Congress. The President, Congress, and the judicial department could all recognize the fact that a great civil war, a great armed revolution was going on in our country; but there was and is no power in the Federal Government to declare and wage a civil war. The Federal Government may suppress rebellions and insurrections in the States, but cannot declare war in such cases as against an enemy, and wage such war for conquest.

But the sting of the President's assertion that peace existed lies in the fact that radicalism never intended the southern people to have peace; their acts abundantly prove it. The President has treated the southern people as his countrymen, guilty of a failure in a wrong cause, while radicalism has constantly treated them as foreign enemies guilty of crime, visiting them with cruel and inhuman punishments by legislation, a mode of punishment unknown to and unpardonable under our institutions. The President saw with joy that peace existed throughout the land, and as glad tidings he proclaimed it, as was his duty, he being at the head of the Army. Had he not done so his armies would have laid waste the little that remained undestroyed in the South; that would have pleased radicalism no doubt, for with them the most cruel, inhuman, and barbarous petty despot is the brightest shining light; with such to rule the South all is serene; when they are happy in him "December is pleasant as May." Cruelty is their sanctifying grace, and the destruction, the utter destruction, of the southern people, southern rights, southern laws, and southern States is the fruition of their highest hopes on earth.

As long as radicalism prevails in the land the southern people will have a bitter and vindictive enemy, and their country the worst of all governments—Congress the one, the blood-stained sword of the tyrant the other. No



statesman can calmly consider the probable results of the reconstruction measures of Congress without trembling with fear for our own safety. In fact, if we recognize the authority of Congress to do these things, we recognize the non-existence of the Federal Constitution, and the fact that anarchy, confusion, and ruin must soon follow. Does any statesman in his sober senses believe for one moment that the American people will submit to have this Government and country mongrelized; that they will acquiesce when ten States are put in the hands of negroes possessing no more knowledge of government generally than their untamed brothers in Africa? Will the white people of the North allow these negroes to come and take seats in this Hall and shape our legislation? Will they allow the Congress of the United States to disfranchise the citizens of States, the white citizens, and enfranchise those who are not citizens, the negroes, simply for partisan purposes?

I tell you the people will not submit to these things, and I tell you they should not. Their liberties and permanent prosperity are involved in these questions, and these they should defend and provide for; and they will. But aside from this let us see if it be in the power of the Federal Government either to make citizens of the negroes of the South and Chinese in the West or unmake citizens of the white men of any section of our country, as these measures propose. To arrive at a correct conclusion as to the rights of citizenship and the rights incident thereto it is necessary to go back to our Declaration of Independence and to the Convention or Congress that passed it. The Delegates chosen to the First Congress of Colonies, which met in Philadelphia in 1774, were chosen to consider the matters of difference between them (the Colonies) and England. Soon after their meeting they passed a resolution declaring their right to the common law, and that their ancestors from whom they held their rights at the time of their immigration were entitled to all the rights, liberties, and immunities of free and natural-born subjects within the realms of Britain. This meant white men. Jefferson says:

"In Congress, June 7, 1776, the Delegates from Virginia moved, in obedience to instructions from their constituents that the Congress should declare that these united Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British Crown; that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved; and that measures should be immediately taken for procuring the assistance of foreign Powers and a Confederation formed to bind the Colonies more closely together."

All this was by white English subjects for their respective States or Colonies, and proves itself so to be. The Declaration of Independence followed.

White English subjects, the citizens of the

colonies were at that time bound by political bands to the Government of King George. Negroes had nothing to do with the Government of England or the Colonies wherein they resided. They had been brought to this country as alien slaves, and by the laws then in force their posterity remained the same, the offspring following the condition of the mother. Many of them were from time to time set free, yet they did not become citizens where they resided, and could not, for they were not English subjects, were not bound by political bands or by consanguinity to that country, and because the charters to the Colonists were to free white men who owed allegiance to the British Crown. The colonial governments were governments of white men. The British Government abused the rights of the free white men of the Colonies, the citizens of the Colonies, those who were bound by political bands to that Government. Then the Colonies passed for themselves the Declaration of Independence, which became to them a law sacred as liberty itself. This sacred law, for the maintenance of which life and honor were pledged, was enacted as a law for the several Colonies as governments—for their governments of white men. It made no Union, but left the Colonies independent of each other; it so declares; it left each one an independent nation of the earth. But in support of my position let us come to a closer examination of the declaration:

"When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another," &c.

Now, it will be admitted by all that the word "people" in this quotation has that restricted meaning which gives it application to the Colonies as governments. The bands dissolved were the bands which bound the Colonies to England. The breaking of those bands was not for the citizens separately or individually, but it was a governmental, a sovereign breaking, which of course carried the citizens beyond the reach of the British Government. All who were bound to England became politically free; that is, they remained exactly as before except as to their connection with that Government. It was citizens who justified the declaration; that justification is contained in the facts that "he constrained our fellow-citizens," and "in every stage of these oppressions we have petitioned for redress." "Fellow-citizens," white men. "We," the white citizens, petitioned for redress.

Now, it appears plainly apparent to me that every word of this was written for those who could take part in the affairs of Government and was intended to have a governmental meaning. Then comes the declaration:

"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of hap-

piness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

This is the iteration of abstract political principles, applicable alone, governmentally, to those who made it and to those who inherit their institutions. That all men are created equal in a general sense is not true, as every one knows. But it is equally as well known that all are equal before the law. Then, by a fair construction, this means that all men subject to the jurisprudence of the State shall receive protection according to their status as fixed by law, and shall receive it according to law. It was not intended to destroy any distinctions in society. No change was made or contemplated in the fixed status of the inhabitants of the several States. Citizens remained citizens, aliens remained aliens, and those who were neither citizens nor aliens remained as before.

"That among these are life, liberty, and the pursuit of happiness."

The word liberty is here used in a restricted sense; liberty subject to law, liberty so far abridged or restrained as may be necessary for the safety and welfare of the State. There can be no liberty claimed for any one which is above the law. Then I assert this word has a governmental meaning; that it does not contain any individual higher-law meaning, and exists only in the sovereignty of the State. At the time this declaration was made the sovereign power was lodged in the hands of white men. They might have changed the condition of things before the formation of the Federal Constitution; but they did not, since they could not. State liberty is what is meant; self-government—self-government which is declared to be an "inalienable right."

If I am right in what I have just said I have already disposed of the quotation:

"To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

But to be still more explicit, the consent of all of every class and caste was and is given through those who proclaim in the voice of an established State. I assert this to be a sound legal proposition, and its correctness will not be denied. Yes, the right of self-government in established States belongs to States and not to individuals; and for those States that made the declaration the right is inalienable. Yet some of these States, paralyzed by the weight of millions of gleaming blades, are prevented from exercising this, their inalienable right. But bloody swords sometimes rust; bloody tyrants always die. The Declaration of Independence contained nothing new.

Different parts and clauses of Magna Charta, the petition of right, and the Bill of Rights, such as had application, were reenacted, nothing more. The people were free English sub-

jects who had suffered wrong at the hands of the king until they saw proper to declare the principles which had from time immemorial governed their fathers, and to enact that those principles should remain a law to them and their posterity forever. I must indulge the hope that enough has been said to establish the fact that the Colonies were governments of white men at the time the Declaration of Independence was made. That being accomplished, I assert that no change was made in any of the States as to the status of the inhabitants up to the time of the adoption of the Federal Constitution. Massachusetts freed her slaves in the meantime, but did not make them citizens, which she then might have done. Then, with governments of white men, we arrive at the time of the formation of the Federal Constitution, and that fixes the question to that date. Citizenship is a much higher right than the right of voting. The right to vote can be conferred by legislation upon any one, but the rights of citizenship can only be conferred by the courts, according to naturalization laws. The Federal Government may pass a uniform system of naturalization laws, that is, laws which have precisely the same bearing and operation in one State as in another. This is all Congress can do upon the subject of citizenship. When a foreigner avails himself of the benefits of the law he becomes a citizen of the State wherein the proceedings are had, and is a citizen of the United States for that reason, and that alone. He is no citizen of the Government of the United States; there can be no such citizen.

Then it follows that any other legislation upon the right of citizenship by the Federal Congress is unauthorized by the Constitution. The Federal Government cannot make citizens of States out of our negro population. There being no such thing as a citizen of the Government of the United States, and a man being a citizen of the United States simply by virtue of the Federal Constitution, and because he is a citizen of a State or Territory under the Government of the United States, it follows that the Federal Government cannot unmake citizens without the power of destroying States.

Citizenship carries the right of suffrage with it in our country, but the right to vote does not carry with it the rights of citizenship. The States have no power whatever over the question of citizenship, but States may confer the privilege of voting upon any one, and may take it away again. But the right of voting is never conferred upon citizens; it belongs to them. Neither can a State take from a citizen the right to vote, except for crime. A citizen may lose every right, even his life, for the commission of crime, provided the crime be defined and the penalty affixed to its commission before it is committed—not otherwise.

It has been said that a State could take away



the right to vote from a citizen because he could not read and write. Such is not the case, and would be a violation of the compact that the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States; also of the fifth amendment to the Constitution.

A State may enact such laws for the punishment of crime as the Legislature may deem for the best interest of society. She may punish one class of crime with death, another by a deprivation of political rights, another by imprisonment, another by fine, and so on to the end. Pauperage is a crime for which the right to vote may be taken from a citizen; the safety of the State demands it; but the right to thus deal with the pauper is distinctly placed upon the ground that he is *quasi* a criminal.

It has been stated on this floor that South Carolina and Tennessee had made citizens of negroes and then taken the rights of citizenship away by a constitutional convention. I deny it. There never has been and never can be a negro citizen of either of those States. There never can be without a destruction of the fundamental principles of our Government. But those States can cast the right to vote upon their negro population or any part of them. They did at one time confer the right upon some, and afterward took it away, not from those who enjoyed the right, but from the class to which they belonged. But they only conferred the right as a reward to the industrious negro who had property to represent. In fact such votes represented property and not negroes.

In case of disfranchisement of citizens for crime they must first be convicted, presented, or indicted by a grand jury. A presentment or indictment may put them in prison; if so, while there they are indirectly, for the time, deprived of the right of voting. But if out on bail, notwithstanding the accusation against them, they are as much entitled to vote as any other citizen. And if never convicted, though indicted, the right of vote continues to them as to other citizens. If the penalty attached to the crime includes a forfeiture of the right to vote and hold office, then a conviction simply puts in operation that part of the law; and officers of election having knowledge of the conviction may reject the votes of such persons as illegal. But officers of election cannot convict a man of crime by the assertion that he has committed one; neither can a legislative body, whether a State Legislature or State constitutional convention. Legislative convictions for crime, or rather legislative punishments for acts asserted to amount to crime, is a most terrible proposition for the contemplation of the legal mind. By the millions, though, we punish our fellow-citizens for acts never classed as crimes: There can be no just law to punish a man for his thoughts or for feelings he cannot

help, yet Congress pretends to enact such laws. A man cannot prevent the fowls of the air from flying above his head, but may prevent them from building nests in his hair; if he does this he does well. A man cannot prevent his loves, his hates, or sympathies, but his judgment can prevent him from gratifying any feeling or passion. But to be brief, sympathy with the rebellion, even during its existence, could not be made a crime, it involving no moral turpitude. That man is worse than a lunatic who contends that it is a crime to-day, when there is no rebellion, and when those who engaged in it are again our fellow-countrymen.

Section two, article four, of the Constitution is a compact fixing forever the matter of citizenship precisely as it stood at the time of its adoption. A word again as to the word liberty. I suppose every lawyer will admit that where it is used in the Constitution it at least includes political liberty. Then article five of the amendments settles the question, and neither State Legislatures, State constitutional conventions, or any other power can take it away from a citizen, for it is there declared that he shall not be deprived of liberty without due process of law.

The liberty here spoken of certainly does not mean freedom from arrest or restraint alone, for that is provided for by another clause in the Constitution, the fourth amendment. This amendment says the right of the people—and this relates to all—to be secure against seizures, unless a warrant issue supported by oath, shall never be violated. Then again, it being an inalienable right in the citizen to participate in the affairs of government, I say it would be depriving him of his liberty to take from him either his citizenship or his right to vote, and would be a most palpable violation of the Constitution of the United States.

Now, I arrive at these conclusions: white men for white men's State governments made the Declaration of Independence. Those governments existed without change or alteration up to the formation of the Federal Constitution, and were not changed by it; that the Federal Government has no sort of control over the question of native citizenship, or the right of suffrage; that the States have no powers over the question of citizenship, but have a right to enfranchise those who are not citizens. But no power on earth can lawfully deprive a citizen of his liberty—his liberty according to all the rights incident to his citizenship. Now I am free to say that the same rule holds good with regard to every human being, according to their measure of rights, and for this reason I have gone back so far in history. No man's rights can be violated or taken away by legislation; no man's life, liberty, or property can be taken away except by



due process of law. What a man's liberty is in this country must be determined by the courts of law and subject to the law; so must all his inferior rights. I think I have shown that the rights and liberties of the white men of this country are greater than can ever legally be accorded to the inferior races. I should here remark that another and different law and reason applies to the inhabitants of territories ceded to the United States by treaty. In such case the sovereign people of whatever color, if guarantied by treaty the rights of citizenship, would continue in the enjoyment of such rights, they being citizens of the country by birth, domicile, and being the law-makers of the country as well as by treaty.

The amendments of the Constitution now pending seek to make citizens of the United States of all men born in the country who are of lawful age. The proposal of these amendments is the assumption of powers in the Federal Government not conferred by any line or word in the Constitution or by any fair construction or implication. It is the assumption of all power in the Federal Government; it is the creation of citizens of the Government of the United States, and is a total overthrow of State supremacy. If triumphant, it works a consolidation of government, and will result in a consolidation of empire. It makes citizens not only of the pet negro but also of the filthy Chinese. If the war ever comes between this new sort of citizens and the white American citizen of Caucasian blood, God be merciful to the new. In fact, it changes our institutions so that we have two separate and antagonistic systems, the Federal and State. We have white citizens of the United States, because they reside in a State and are citizens therein. Now we create citizens of the Government of the United States of those who are residents in, but not citizens of, the States. These citizens are negroes, Chinese, and Indians. This must not be or ruin must follow. Can the negro and Chinese citizens of the United States Government prevail over the white citizens of the States? Hardly. But the white men will destroy the negroes and Chinese, and then this Federal Government will fall. For once it be broken on this question it is broken forever.

The debate upon the reconstruction bill took a wide range, but no gentleman pretended to say that it was constitutional for Congress to withhold the protection of the courts from any portion of the American people, whether criminals or goddess-born heroes. They did not argue to prove that martial law could be enacted by Congress for the government of the people. They did not argue to prove that the President of the United States is not the Commander-in-Chief of the Army and Navy of the United States. They did not argue to prove such legislation necessary or advisable, or that the Union could or would be restored

by it. But it was said that the President obstructed the plans of Congress, and that he would not enforce its decrees—in what particular was not stated. One distinct and emphatic assertion was made by several leading members on this floor as to the purpose of the Radical party; they gravely declared their intention of "going through" the President. Whether they may succeed in their national pastime I do not hazard a surmise. If he is a non-conductor then it cannot be done, otherwise some should be able to accomplish the feat. In fact, the operation may be agreeable to all parties; this will depend upon the President's fondness for oysters.

I will tell you why it is you so bitterly assail the President; it is because his messages have opened the eyes of the people, and proven to be mortal wounds to the Radical party. In those messages he has written the history of that party, whether truthfully or falsely let time determine. But that history is written, and never can be unwritten. If those messages immortalize the President and secure to him the honor, love, and admiration of coming generations, then radicalism will be execrated so much the more. If radicalism is condemned, loathed, and despised by all honest men, then the President's glory will be so much the greater. A great deal has been said about the clause of the Constitution providing that the United States shall guaranty to each State in this Union a republican form of government.

That provision was intended for the protection of the States against foreign aggression, and against the usurpations of the Federal Government, and never was intended as a declaration against the right of self-government in the States. Are we carrying out that provision when we enact martial law for ten States? But gentlemen say this kind of legislation is resorted to to enable the loyal people of the South to create republican governments. No difference; even if such be the objects it is unconstitutional still, and we cannot do that which the Constitution directly forbids; for the results of such acts are never certain, and the restrictions of the Constitution are placed upon Congress to prevent any experiments or uncertain legislation.

Could not the southern States be restored to their former relations with the Federal Government much sooner if protected by its executive and judicial branches? If gentlemen wanted the southern States in the Union what was to prevent their being in the Union? They had republican forms of government up to the time of the passage of their ordinances of secession certainly. At the end of the rebellion they had the same constitutions and the same machinery of government as before the rebellion. They put their governments in motion, and their relations to the Federal and other State governments were acknowledged in the

most solemn form to be that of State governments in this Union of States. You acknowledged them as sovereign States with legal governments, and took advantage of one of their first acts after their relations with the Union had been resumed—I mean their acts abolishing slavery. The rebellious States, by their acts of secession and setting in motion illegal *de facto* governments, did not destroy their constitutions which existed at the time such *de facto* governments were put in motion. Then their old constitutions were still the constitutions for those States. Although for a time, because of the rebellion, they were not enforced in respect to the Federal compact, but in other respects they were.

But this could make no difference. It was by those constitutions, the Federal compact and acts of admission, that those States remained, for the purposes of government, as a part of and members of the Union. Mind, for the purposes of government, for those States never had any other connection either with the Federal Government or any of the other States.

Then it is evident those constitutions remained lawful for the respective States for which they were ordained. The object of a State constitution is to restrict and prescribe the powers and duties of those who fill the places it creates, and as long as a State constitution exists it and it alone directs the machinery of government as to all matters comprehended within it. Then, when the rebellion ceased and governments were put in motion and guided by their old constitutions, those were legal State governments; and the decreeing of any other by the Federal Government is a clear usurpation of power. When the pet, the ebony idol, was being fitted for the high honors you are trying to confer on him, then those were sovereign States in the Union. Ah, yes! When dealing gently with the negro they were States in the Union. Again, as to the crimes committed by the southern citizens who engaged in the war. If the position is taken that they are no longer citizens because they did so, that logically establishes the lawfulness of secession, which we deny.

If they are citizens yet they are entitled to all the benefits of a uniform system of laws administered by the constitutional courts. If citizens, their political and civil rights must be protected and must be the same as is enjoyed by other citizens; and their rights which accrue by virtue of their citizenship cannot be taken away unless they be lawfully convicted of crime. Such conviction has never been had against the southern people, and there is no pretense that it ever will. In fact, I assert it never can; and I do this in full view of the fact that their secession was unlawful. But in the prize cases it was decided that the rebellion was carried on by States; and the decision was right. Those States seceded and set up

another federal system, to which the people of all of them owed allegiance while it existed as a *de facto* government. It was a high crime to resist it, and it could not be resisted. The Government of the United States did not and could not exercise civil jurisdiction in those States during the existence of the "so-called" confederacy. And more: I say this Government did not claim to have such jurisdiction in those States, but distinctly, in many ways, avowed the contrary.

Then, it appears to me that no man who confined his operations strictly within the lines of the confederacy or confederate States committed any crime against the laws of the United States for which he could be punished. I will hazard a remark a little more emphatic. I believe every lawyer in the United States who has studied this question well will agree with me. My doctrine, summed up, is about as follows: I believe that the Constitution of the United States is the supreme law of the land, and that it defines the powers and prescribes the duties of Congress; that it is a compact of perpetual union between the States, guaranteeing to each the right of self-government; that it put in motion the Federal Government, and is its only charter of powers; that the Federal Government, was ordained as a part of the State systems of government, and that the State governments are no part of the Federal system; that the constitution and laws of a State may be rendered inoperative, but that no unlawful combination of citizens can lawfully destroy a State constitution; that State constitutions are ordained by the sovereign voice, and will always exist if the State exists, unless changed by the same power in a lawful manner or be overthrown by a foreign foe for conquest; that the acts of secession passed by the southern States were the acts of States, but were unlawful, being in violation of the compact; that States cannot commit treason; that southern citizens who staid within the lines of the confederacy did not commit treason; that no act not punishable when committed can be punishable as a crime; that there can be no citizens of the Government of the United States; that a citizen of a State is a citizen of the United States by virtue of the Federal Constitution; that the Government of the United States can make citizens by a uniform system of naturalization only; that States cannot make citizens; that the Federal Government has no power over the right of suffrage; that the States can confer the right of suffrage on any one; that none but citizens can be Senators or members in Congress; that none but white men were citizens at the time the Federal Constitution was adopted, and there being no power of change, none but white men can ever be citizens in this country except they be the sovereign power in a State or country ceded to the United States.

In conclusion, no man can rightfully have the doors to our courts barred against him. The legislation resorted to by Congress does not only abolish the Supreme Court, but abolishes the office of President of the United States, at least so far as his constitutional duties are concerned, and centers all power in Congress—a Congress exercising legislative, executive, and judicial powers! This, too, in violation, as I honestly believe, of their constitutional oaths, and against appeals and good advice from this side of the House. We must turn, then, to another and higher source of power, if we hope to save our institutions;

with prayers to God for more light we must make our appeals to the people, where we hope to find support for the Constitution of our country—a white man's Government. liberty according to law, and the triumph of that brotherhood founded in love of our Constitution and constitutional liberty. Ah that we may avert the terrible evils of radicalism; that demon spirit, seething in all that is vile and false, reeking in corruption which is bringing death to our institutions by its loathsome embrace. May the God of nations and men purify them to a fitness for American citizenship!



SPEECH

OF

HON. M. S. LATHAM, OF CALIFORNIA,

ON

THE RIGHTS OF NEUTRALS—CUBA.

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, JUNE 14, 1854.

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## SPEECH

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The House being in the Committee of the Whole on the state of the Union—

Mr. LATHAM said:

Mr. CHAIRMAN: In the midst of peace and general prosperity, while commerce and agriculture are flourishing, and every species of industry meeting its adequate reward, the apprehensions of the country have been excited, and our business community startled by various resolutions introduced into this House and the Senate, by gentlemen who seem to have paid especial attention to our foreign relations, and to whose peculiar keeping it would seem an overruling Providence had confided the destinies of this great Republic!

While we have been taught for years past to believe in manifest destiny, while historical events, which we all witnessed, have contributed to create and strengthen that belief, in which the present generation is now regularly educated, we are permitted to behold and admire in this House the instruments through which God's providence is to work out the problem of peopling and civilizing this great continent! The men who have received this special mission are before us, and their inspiration is manifest from their high resolve! Anticipating the future, and strong in the consciousness of the power to be acquired by us within the next two or three decades, they have, in a parliamentary way—the only one left open to their ambition and patriotism—laid down the principles which ought to guide our intercourse with foreign nations, and the policy which we ought to pursue at this particular crisis. It is not enough for the people of this country to believe in a particular doctrine; they must have faith also in the Apostles.

For the present, our new leaders give to their inspirations the form of inquiries. Their modesty—Heaven's choicest gift, the adorning grace of every virtue—will not even permit them to make suggestions; but they prefer the more unpretending, popular, Socratic method of questions and answers, to lead the benighted to understand the things they would teach them. And if the Administration is but half as intelligent and docile as were the pupils of the great practical philosopher of antiquity, it

cannot, with any show of reason or candor, resist the conclusion they would arrive at. There is but one drawback to this system of instruction, which would otherwise be accompanied by the most beneficial results. There are too many teachers, and they slightly vary in the doctrines which they seek to inculcate. Each of them seems to have received a special revelation, and each, therefore, is anxious to establish a sect of his own. It is difficult for this House, and the country, to determine which is the real orthodox teacher, and which the heresiarch that would make us swerve from the true faith. It is this doubt, sir, which hangs, not so much over our destiny as over the men who feel themselves called upon to guide it, that puzzles and perplexes me. I, too, am a believer of manifest destiny; but I want that manifestation to be clear and explicit. I am not satisfied to see the point I wish to arrive at; I want to see the way that leads to it.

Let us for a moment, in consideration of this question of the RIGHTS OF NEUTRALS, and CUBA, cast a glance at the condition of the country, and the prospect of things before us. We are a free, happy, prosperous people; we have from the beginning of our national existence increased in wealth, population, and territory; and this so steadily, without interruption, that not only ourselves but the world believes in our mission. Under the benign influence of our institutions, each State of our Federal galaxy is developing its gigantic resources, while the energy and enterprise of the whole people is constantly employed in discovering new sources of wealth and prosperity, and new scope for the exercise of their varied faculties. We have not only added vast possessions to our magnificent domain; but we have cultivated, peopled, and improved them without diminishing the rapid development of what was already ours by the labor and valor of our ancestors.

As a child outgrows its garments, we have outgrown our ancient metes and bounds, and are even now daily increasing in wealth and power. What we are too young to do to-day, we are ripe for to-morrow, and will accomplish, without extraordi-



nary effort, the day after. We, of all nations of the world, are best able to bide our time. We have a continent before us, and the future is ours without dispute. The boy ten years of age may not be equal to the man of forty; but ten years hence the youth will be an over-match for the man of fifty, and twenty years hence, the man of thirty will meet with but a feeble resistance from the sexagenarian. We are in that condition, sir, in the family of nations, and can afford to let the years roll on which bring us nearer to our full manhood, and *all other nations* whom we are now emulating to old age and decrepitude. All we require is to nurse our health, and to commit no excesses, that we may not be doomed to premature old age.

Now, under these circumstances, it appears to me that we are not bound to divulge to the world what we mean to do hereafter, if the world has not sagacity enough to know it, nor is it prudent in us to indulge in threats and boasts of our forthcoming strength. We need not now weaken our internal organization and cohesion, by developing one set of faculties at the expense of others, or by giving a particular direction to some of our already sufficiently developed national propensities. The harmonious growth of body and mind, of physical and mental faculties, is what we ought to aim at, and, with a view to that object, we ought to avoid exposing ourselves to all those influences at home or abroad, which would give our national developments a one-sided direction, and instill into us desires and passions which can only be gratified at the expense of our better moral nature. And, above all things ought we to avoid those sophisms which blunt our perceptions of right and wrong, and lend to vice itself the color of reason and justice. Sir, if we were not as a nation easily moved by passion, if, in the gratification of our desires, we were not easily betrayed into the sacrifice of our own convictions, partisan leaders would have no power over the people, and heads of cliques would find it difficult to deceive them about their own dearest interests.

But unfortunately for the peace and progress of our country we have too many men among us, whose purient ambition will stop at nothing, and whose "longing after immortality" can only be satisfied by seeing their names in public print. They must be connected with some startling proposition, with some novel and striking theory that shall wake up the drowsiest audience and fill with surprise and expectation the most unsuspecting portion of the public. It is to achieve such results that men in high places must tax their ingenuity, and if their inventive faculties are not equal to a new creation, they must dress up some old theory to suit the taste and fashion of the day. The condition of the Old World furnishes an inexhaustible theme for exhibiting their versatility of talent and the indefinite expansiveness of their patriotism. There never was a chance of going down to posterity at so cheap a rate. There are those whose love of glory looks to the tented field for a theater of action, "seeking the bubble reputation, even at the cannon's mouth;" but the way to arrive at honor and distinction in this House, is "through the native hue of resolutions, not 'sicklied over with the pale cast of thought.'" These resolutions are now crowding upon us, and must be followed by action—no

matter what may be the consequence. Two sets of resolutions in regard to our foreign relations, pending the present European struggle, have engrossed the attention of this body: one set referring to our rights (they say nothing of our obligations) as neutrals, the other setting forth our claims, established to our entire satisfaction, on Cuba. I shall speak of them in order.

As regards the rights of neutrals, there are, I think, few thinking and reflecting people in this country, certainly no commanders and mates of vessels, who have not a pretty reasonable and just conception of them. The theme has become so familiar to all of us, and has been so often, so ably, and so fully discussed in Congress, and in the leading journals of the day, that any further elaboration of the subject, while destitute of novelty, cannot but prove a severe trial to our patience. The "rights of neutrals" have become household words with the American people, and there is no danger that, at this hour, when every event that transpires has a special reference to them, they are likely to escape our memory.

But, Mr. Chairman, we are told by the gentleman from Connecticut, [Mr. INGERSOLL,] that we must act, that we must assert our rights in Congress and elsewhere, that we must let England and the world know where we stand as a nation in regard to them. Allow me to say, sir, that no nation in the world has given better evidence than our own, of its perfect understanding of the rights of neutrals, and that no other nation has impressed England or France more thoroughly of its knowledge in that respect. Russia and the other northern Powers have on more than one occasion maintained an armed neutrality, but no other nation has punished the infringement on the rights of neutrals, by an open declaration of war. Other nations may have threatened war, in case their rights as neutrals were invaded—we have waged it. As our forefathers have revolted, not so much, perhaps, against actual oppression as against the principles laid down by Great Britain, for the government of her North American Colonies; because those principles contained the germ of oppression—taxation without representation—so have the United States drawn the sword to sustain the rights of neutrals, the maintenance of which, at that period, was far less a matter of policy than of national honor. We are the only nation recorded in history which, in this respect, has been guided by principle, only, and which has had the courage and the will to act upon it, regardless of all consequences. Neither have we done these things merely in times past, and since relaxed in the practice. Our declarations and our acts are fresh in the memory of our contemporaries as they are in our own. Happily for the United States, we need not, to illustrate our public men, go back to past centuries or fabulous ages. The heroes of the Revolution, and of the last war with England, have not all passed from the stage, and are at furthest but the fathers and grandfathers of the present generation. Their words and warnings are yet living things in the hearts of their children and grandchildren; while no act has been committed on our part to impair the force of their example, or the respect in which it is held by other nations. We are not yet the degenerate offsprings of valorous sires; our heroic age is not yet past, and we have not

yet dwindled down from great actors on the historical stage, to great talkers, and writers, and recapitulators of traditional virtues. We are still what we profess to be, and what we have always been, in a moral point of view, and the world gives us credit for it. We have acted up to our professions, and the world knows it. We have carried out the principles laid down by our forefathers, and the world has applauded us. We have no occasion to say to England, or France, or any other Power, "this you must not do"—"this we will resent," &c. England, and France, and other nations have reason to know that we will not submit patiently to any national wrong, that we are ever ready to avenge an insult offered to our national flag. The spirit of our people will not brook it, no party in power can suffer a stain on our national honor. Why, then, reaffirm what nobody doubts? Why, give color to the suspicion that we have relaxed in the severity of our character as Americans, and now require a stimulus to bring us up to the mark of former days? Why lead any to suppose that we doubt whether England and France believe us still the same we were in 1812?

I have no fear, sir, that we have sunk in the estimation of the world, or that any power on earth doubts our determination or ability to maintain our rights. If we went to war for the rights of neutrals, when we were but a nation of twelve millions of people, we will not assuredly shun it, should similar provocations be offered, when our numbers have more than doubled, and our resources more than quintupled. This sort of calculation England can make for herself, and her statesmen being of the calculating order, are sure to ponder on it. They have seen nothing in the Mexican war that looks like degeneracy, nothing in the Koszta affair which warrants the suspicion that our Government is not prompt in maintaining its honor and dignity, in whatever quarter of the globe they may be assailed.

Have we not, in 1842, single handed, resisted the Quintuple treaty, then about to be concluded and ready for the signature of the representatives of the five great Powers of Europe? Was not the firm attitude of our Minister in Paris, General Cass, alone sufficient to break up that conspiracy against our flag and commerce in the form of an *ex parte* agreement to the right of search? This happened during a period of profound peace between all European nations, just after a reconciliation between England and France on the subject of the Egyptian question and the bombardment of St. Jean d'Acre. The United States acted on this occasion as became her dignity, and the other nations deferred to it. Here was an alliance between England, France, Russia, Prussia, and Austria—the European pentarchy who have regulated the affairs of that continent since 1815, to the exclusion of all the minor Powers, who were not even permitted to sign the peace of Paris; and yet the United States, acting on the principle which had guided her conduct from the day of her national independence, prevailed against the coalition. She would not allow Great Britain to constitute herself high constable of the ocean. She insisted that every nation joining England in this unjust and unheard of enterprise was damaging her own maritime independence, and committing an outrage on the neutral flag of America. And

what did France and, subsequently, all the other continental Powers of Europe do? Did they doubt that the United States was in earnest? Did England suppose that the protest of the American Minister in Paris was a mere matter of form? Certainly not. France and the other continental Powers refused to ratify the Quintuple treaty, and there the matter dropped, to be subsequently made a subject of negotiation between the Government of the United States and that of England.

This, as I have just remarked, was done in the midst of a profound European peace, and the perfect *entente cordiale* between England, France, Russia, Prussia, and Austria, without a threat being used on either side, and without a resolution or debate on the subject in Congress. The civilized world knew where we stood, and there was no necessity of reaffirming our positions by a parliamentary act. England surrendered her pretensions, and our national honor was vindicated without having recourse to congressional eloquence.

Let us now look to the present condition of Europe. England and France, to be sure, are allies, impelled to alliance by a common interest, and a sense of common danger; but that interest and that alliance not extending beyond the Eastern question. They are at war with the gigantic power of Russia; England defending her empire in India, and France her dependencies in Africa, threatened by the march of Russia on Constantinople. They have succeeded in checking the naval power of Russia, but they have not destroyed it. They may impede her progress on land, and succeed in driving her out of the Principalities; but Russia will still remain a colossal Power which cannot easily be attacked at home, and whose rapid strides in civilization and strength cannot be permanently arrested; and on whichever side victory may incline, the peace that will follow will be a hollow one. The causes which led to the war, the manner in which it was conducted, and the mode of its conclusion, will long be remembered, and form a fruitful theme of diplomatic intrigue and national animosity. There need be no fear on our part that the five great Powers of Europe will ever again, as a unit array themselves against the commercial prosperity—I had almost said *supremacy*—of the United States. There is no danger of such another crusade against our interest and honor as that which was so successfully put down by the persevering efforts of a single man. Nor is it likely that a *partial* effort will be made by Great Britain and France, or by either of these Powers, alone to attempt anything similar to it, as long as our Ministers abroad and the Administration at home are doing their duty.

Sir, if this war between England, France, and Turkey on the one side, and Russia on the other, continues for any length of time, good sense will dictate such a policy on the part of the belligerents toward the United States as is not likely to lead to a serious misunderstanding between us and either one or all of them. In a great struggle like this, all parties to it must exhaust their strength, and all must, in consequence, lose power; though one or the other may, as a reward of its endurance, and the price of its valor, acquire a few exhausted and depopulated provinces. It is not a child's play for the allied Powers to attack Russia, a country occupying a sixth part of all



the land on this globe, and whose area is nearly three times as large as that of all Europe. The Russian possessions in Europe alone occupy one half of that continent; and her army, tried in a contest against the greatest captain of all ages, is vigorous, well appointed, disciplined, and devoted to the will and fortune of a single man—the Emperor. The Russian army is subsisted at half the expense of an English or French army, composed of equal numbers and arms, and it is far more easily recruited than the English. To these advantages Russia yet joins the religious enthusiasm of her people, and the singleness of direction, resulting from her autocratic form of government, which is particularly favorable to military operations. The allied Powers, on the other hand, are possessed of mighty energies. One of them, France, is by her great mobility, her facility of organization, and her progress in the exact sciences, at the head of all military nations of the earth; while the other, having dotted the globe with her maritime possessions, and subjected empires to her commerce, must still be considered at the head of the naval ones. Both have filled the measure of historical renown; both have a glorious and chivalrous past, and its memory preserved in a thousand legends, living in the hearts of the people; each are at the head of great industrial developments; and both are able to bring the highest degree of civilization to bear on the gigantic struggle to which we, I trust, will remain neutral and passive spectators. Such a war as this is not likely to be of short duration, nor is it probable that the nations placed between the mighty combatants will be able to remain inactive while such scenes as those the news of which are startling even to us, at a distance from the theater of war, are passing along their frontiers and shores. I, for one, do not believe that Prussia and Austria will be able to preserve their desired neutrality, even for the purpose of offering their mediation after a great and decisive battle. All Europe is about to be convulsed, and it will be a long time before any European Power will again seriously contemplate to circumscribe our progress and arrest our growing power.

The war in Europe, commenced for territorial aggrandizement, may, long before its termination, become one of principle. The armies, marshaled in the field to do battle for the politics of Cabinets, may destroy each other, or become reduced and exhausted in the progress of the campaign; and the people, no longer restrained by bayonets, may once more venture to assert the rights of self-government. Kings, Queens, Sultans, and Emperors may figure during the first act of the great drama about to be performed on the historical stage; but the people may occupy the place near the footlights in the fifth act, and group the armies and trophies of war in the back ground. While these mutations are possible, perhaps probable, we, the only nation which, by wisdom and prudence, and justice to all, can preserve its neutrality, need not, by congressional resolutions or presidential declarations, stipulate the conditions on which we consent to remain neutral in this fearful combat. We have no new conditions to offer; no new terms to propose. What we ask is the observance of the law of nations, nothing more. It would, no doubt, be gratifying to some European Powers to involve us in their war; but it will be the part of

sound statesmanship to keep us out of it. We have no desire to participate in its expenses and vicissitudes, and no business to abandon the advantages of neutrals to share the burdens of the belligerents.

But suppose we had fixed the conditions on which we are willing to remain neutral during the present war in Europe, and that England and France, and all other European Powers, were ready to submit to them, what would we gain by it? All conditions between nations are from their very nature reciprocal; and a young people like ourselves, increasing daily in wealth and power, need not, at the beginning of a war which threatens to be a long and tedious one, and which may change the map of Europe, and the condition of all the old continent, bind ourselves down to a particular line of conduct, not obligatory upon us under the law of nations. The belligerents may change their policy and tactics; nations now acting in concert with others, may form new combinations, and become arrayed against each other on the battle-field; old alliances may be severed, and new ones formed; dynasties may disappear, and be replaced by others; revolutions may change the existing forms of government; during all which, we, having ourselves great interests to guard on this, our own American continent, must do nothing, either by treaty stipulations or otherwise, that shall prevent us from remaining masters of our fate.

The true, dignified, and prudent course for the United States to pursue, is not to demand of England, (of France we need not demand it, since she has demanded it herself, and is with us on this great question,) in a blustering way, by high-sounding—I had almost said martial resolutions—introduced into this or the other House, that respect be paid to what we consider national law, but to obtain from other Powers, and especially from England, a recognition of that law as a matter of abstract justice, and as a means of protecting the commerce and shipping of all neutral nations. We alone cannot make national law. We may make demands on other Powers which we deem just, and are ready to enforce by the Army and Navy of the Republic; but we cannot make laws for the guidance of other nations without the consent of those who are to be governed by them. Hence we must negotiate and obtain the consent of all, or the principal ones among them, to our proposition. Now, I put the question to this House: is it proper to begin these negotiations by an act or a resolution of Congress? Have we any reason to suppose that the matter is neglected or forgotten by the Administration, and that a resolution is necessary, in the nature of a gentle hint, to make the Secretary of State attend to his duty? If so, we have evidence before us that it is merely a work of supererogation.

Copies of the correspondence which has passed between this Government and foreign Governments, upon the subject of the rights of neutrals, and the rights claimed by belligerents, in the war now pending in Europe, have but recently been submitted by the President to this House. It has been read and printed, and furnishes ample proof that the ship of State, in this respect, is on the right track, and that the Secretary of State understands his duty, and does it.

I will read Governor Marcy's letter, dated April 28, 1854, in reply to a communication addressed



to him by the Ministers from England and France on the subject. The Secretary of State says:

DEPARTMENT OF STATE,  
WASHINGTON, April 28, 1853.

The undersigned, Secretary of State of the United States, has had the honor to receive the note of Mr. Crampton, her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, of the 21st instant, accompanied by the declaration of her Majesty the Queen of the United Kingdom of Great Britain and Ireland, in regard to the rule which will for the present be observed towards those Powers with which she is at peace, in the existing war with Russia.

The undersigned has submitted those communications to the President, and received his direction to express to her Majesty's Government his satisfaction that the principle that free ships make free goods, which the United States have so long and so strenuously contended for as a neutral right, and in which some of the leading Powers of Europe have concurred, is to have a qualified sanction by the practical observance of it in the present war by both Great Britain and France—two of the most powerful nations of Europe.

Notwithstanding the sincere gratification which her Majesty's declaration has given to the President, it would have been enhanced if the rule alluded to had been announced as one which would be observed not only in the present, but in every future war in which Great Britain shall be a party. The unconditional sanction of this rule by the British and French Governments, together with the practical observance of it in the present war, would cause it to be henceforth recognized throughout the civilized world as a general principle of international law. This Government, from its very commencement, has labored for its recognition as a neutral right. It has incorporated it in many of its treaties with foreign Powers. France, Russia, Prussia, and other nations, have, in various ways, fully concurred with the United States in regarding it as a sound and salutary principle, in all respects proper to be incorporated into the law of nations.

The same consideration which has induced her Britannic Majesty, in concurrence with the Emperor of the French, to present it as a concession in the present war, the desire "to preserve the commerce of neutrals from all unnecessary obstruction," will, it is presumed, have equal weight with the belligerents in any future war, and satisfy them that the claims of the principal maritime Powers, while neutral, to have it recognized as a rule of international law, are well founded, and should be no longer contested.

To settle the principle that free ships make free goods, except articles contraband of war, and to prevent it from being called again in question from any quarter, or under any circumstances, the United States are desirous to unite with other Powers in a declaration that it shall be observed by each, hereafter, as a rule of international law.

The exemption of the property of neutrals, not contraband, from seizure and confiscation when laden on board an enemy's vessel, is a right now generally recognized by the law of nations. The President is pleased to perceive, from the declaration of her Britannic Majesty, that the course to be pursued by her cruisers will not bring it into question in the present war.

The undersigned is directed by the President to state to her Majesty's Minister to this Government that the United States, while claiming the full enjoyment of their rights as a neutral Power, will observe the strictest neutrality towards each and all the belligerents. The laws of this country impose severe restrictions, not only upon its own citizens, but upon all persons who may be residents within any of the Territories of the United States, against equipping privateers, receiving commissions, or enlisting men therein, for the purpose of taking a part in any foreign war. It is not apprehended that there will be any attempt to violate the laws; but should the just expectation of the President be disappointed, he will not fail in his duty to use all the power with which he is invested to enforce obedience to them. Considerations of interest and the obligations of duty alike give assurance that the citizens of the United States will in no way compromise the neutrality of their country by participating in the contest in which the principal Powers of Europe are now unhappily engaged.

The undersigned avails himself of this opportunity to renew, &c.

W. L. MARCY.

Now, it appears to me that this letter contains all that can now be prudently said in regard to this subject. England is made to know that we

are not satisfied with a "qualified" sanction of what we consider sound international law, by a practical observance of it in the present war; but that we shall do all in our power to procure "its recognition as a rule of international law" for all subsequent wars. We have already incorporated the principle in some of our commercial treaties with the smaller maritime Powers, and we also know that France and Russia are with us in this great question of "humanity, civilization, and justice." This is all very satisfactory, while, at the same time, it is gratifying to know that the Secretary of State, in pressing the general recognition of the rights of neutrals, now and forever, has not forgotten the obligation of neutrals, and that, in that respect, his letter is far more complete than the resolutions on the subject introduced into Congress.

Let us continue, through our ministers and diplomatic agents abroad, and through representations made by our Secretary of State to the ministers and representatives of foreign Powers here in Washington, to press this important subject on the consideration of all maritime Powers. They have an equal interest with ourselves to stand up for the rights of neutrals; for though they may not have the same extended commerce and navigation, they are less able than ourselves to protect what share they have of them, and fewer and less efficient means to make reprisals. All this must necessarily be left to negotiation; but it becomes us to take the lead in the matter, and it appears, from the correspondence just alluded to, that we have not been altogether unsuccessful. I will here quote, from that same published correspondence, an order of council which still further prescribes the manner in which the conduct of the British cruisers in regard to neutral vessels is to be regulated during the present war.

*At the Court of Windsor, the 15th day of April, 1854.*

Present, the Queen's Most Excellent Majesty in council.

Whereas, her Majesty was graciously pleased, on the 28th day of March last, to issue her royal declaration in the following terms:

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, having been compelled to take up arms in support of an ally, is desirous of rendering the war as little onerous as possible to the Powers with whom she remains at peace.

"To preserve the commerce of neutrals from all unnecessary obstruction, her Majesty is willing, for the present, to waive a part of the belligerent rights appertaining to her by the law of nations.

"It is impossible for her Majesty to forego the exercise of her right of seizing articles contraband of war, and of preventing neutrals from bearing the enemy's dispatches, and she must maintain the right of a belligerent to prevent neutrals from breaking any effective blockade which may be established with an adequate force against the enemy's forts, harbors, or coasts.

"But her Majesty will waive the right of seizing enemies' property laden on board a neutral vessel, unless it be contraband of war.

"It is not her Majesty's intention to claim the confiscation of neutral property, not being contraband of war, found on board enemies' ships; and her Majesty further declares that, being anxious to lessen as much as possible the evils of war, and to restrict its operations to the regularly organized forces of the country, it is not her present intention to issue letters of marque for the commissioning of privateers."

Now, it is this day ordered, by and with the advice of her privy council, that all vessels under a neutral or friendly flag, being neutral or friendly property, shall be permitted to import into any port or place in her Majesty's dominions all goods and merchandise whatsoever, to whomsoever the same may belong; and to export from any port or place in her Majesty's dominions to any port, not blockaded, any cargo or goods not being contraband of war, or not regul-

ing a special permission, to whomsoever the same may belong.

And her Majesty is further pleased, by and with the advice of her privy council, to order, and it is hereby further ordered, that, save and except only as aforesaid, all the subjects of her Majesty and the subjects or citizens of any neutral or friendly State shall and may, during and notwithstanding the present hostilities with Russia, freely trade with all ports and places, wheresoever situate, which shall not be in a state of blockade, save and except that no British vessel shall, under any circumstances whatsoever, either under or by virtue of this order or otherwise, be permitted or empowered to enter or communicate with any port or place which shall belong to, or be in the possession or occupation of, her Majesty's enemies.

And the right honorable the lords commissioners of her Majesty's treasury, the lords commissioners of the admiralty, the lord warden of the cinque ports, and her Majesty's principal secretary of State for war and the colonies, are to give the necessary directions herein as to them may respectively appertain.

C. C. GREVILLE.

This, I take it, is tolerably satisfactory for the present, and exhibits no failure on our part to excite the British Government to action. Let us continue our watchfulness and our adhesion to a fixed principle. Let us take advantage of every favorable opportunity which presents itself, and of the successive changes that the war itself may produce, to urge our claims, and those of all other maritime Powers; and it will soon be the part of wisdom, as it is eminently that of justice, for England to yield to the enlightened opinion of the world, by recognizing as a permanent, international law, what she declares will be her rule of action during the present European war.

But there is yet another species of resolutions, introduced into this and the other House, referring not so much to our rights, as to the *privileges* of neutrals, as they and their followers understand them. They squint toward our throwing off the responsibility of neutrals, without assuming any definite responsibility for such an act. We have resolutions, introduced into the other House, contemplating the temporary suspension of our neutrality laws, and others in this House, if not of a similar character, at least contemplating similar results. These resolutions refer to matters and things in the Gulf of Mexico, and particularly to Cuba. I admit, sir, that our relations with Spain, growing out of that island, are of an extremely delicate nature; that the fate of that island, its misgovernment, its proximity to our shores, and the particular institutions established upon it, are of vast importance to the peace and security of this country; and that the utmost vigilance in regard to it is not only demanded by prudence, but an act of imperative duty on the part of our Government. The Island of Cuba commands, in a measure, the Gulf of Mexico. In case of a maritime war, in which the United States may be engaged, its possession by the enemy might become a source of infinite annoyance to us, crippling our shipping, threatening the great emporium of our southern commerce, and exposing our whole southern coast, from the Capes of Florida to the mouth of the Rio Grande, to the enemy's cruisers. The geographical position of Cuba is such that we cannot, without a total disregard of our own safety, permit it to pass into the hands of any first class Power; nay, that it would be extremely imprudent to allow it to pass even into the hands of a Power of the second rank, possessed of energy and capacity for expansion. We know what Holland has done with the island

of Java, and we have no idea of allowing any European nation to colonize Cuba after the manner of the Dutch. We cannot allow any nation but Spain to hold the island; and it is, perhaps, fortunate for our youthful advancement that Spain is a descending Power. Spain is not capable of developing the vast resources of Cuba, nor has she the ability and strength to take advantage, in a military point of view, of its geographical position. Spanish power has everywhere been driven, even from this continent, by her own feeble, half-breed colonists. It was bought and sold by the French, and expelled, at the point of the bayonet, from its last foot-hold on the territory now occupied by the United States. It was obliged to seek refuge in the islands of the West Indies, whither Mexico and the South American States, for the want of competent naval forces, could not pursue it, and where it has vegetated ever since, more indebted for its security to the tolerance of other Powers, than to any inherent strength and cohesion of her own.

Spanish power in the Gulf of Mexico has only had a nominal existence. It cannot grow and expand while the mother country is declining in influence and power, and while the United States are constantly increasing in territory and population. Cuba is a mere Spanish farm, badly worked by tenants for its lazy and thrifless proprietors. It must, in due time, come under the hammer, and there is no party which can afford to pay as high a price for it as ourselves. In case of sale, we shall certainly be the most liberal purchaser, and pay enough for it to discharge all the mortgages and every other species of claim upon the estate. At the same time we cannot allow it to pass from its present proprietors into other hands. We certainly cannot allow any one else to bid for it; and, in case of accident or death of the present holder, would feel ourselves called upon to administer upon the estate. But we have no desire to take forcible possession of it, by expelling the present owner, as long as we can live in peace with him; in other words, so long as we can preserve neighborly relations with him without inconvenience and injury to our property. Let Spain make the most of the island—let her derive as large a revenue from it as she pleases, and let her dispose of that revenue as she pleases, we have no right or disposition to meddle with it; but if she choose to lay it waste, because she thinks we desire its acquisition, or makes a nuisance of it to spite us, then let us give her warning that we will not submit to so barbarous a course, and that, in case she persists in it, we will forcibly enter upon the farm and abate the nuisance. In doing this in a quiet, orderly, direct way, without noise or bluster, we shall preserve our own self-respect, and be justified in the eyes of the civilized world. Having gone thus far, I would state that the possession of Cuba is *desirable*. It would make of the Gulf of Mexico almost a *mare clausum*, protect the mouths of our western rivers, and add to the security of property of all the gulf States, while it would increase our wealth, our agricultural products, our shipping and commerce. I am further willing to admit that it would add to our political equilibrium at home; that it would quiet the fears and apprehensions of the minority, and thereby abate the sectional jealousies which threaten to become the bane of our Confederacy. It would



so increase our internal commerce, and so augment the intercourse between citizens and business men of different States, that it would not only stimulate production, but promote good feeling and establish friendly relations between people now animated by sectional animosities. It would give to our coasting trade an impetus which would immensely add to our tonnage, while it would cheapen the production of the great staples necessary to life; thereby adding to the comfort and well-being of our laboring classes, and increasing the rewards of their industry. In a national point of view, the possession of Cuba would easily add to our exports and imports; while, at the same time, it would give assurance to the world that our mission is peace and labor, which the people of all nations are invited to share with us, while, at the same time, we are ever ready, under liberal commercial laws, to exchange our products for those of other countries. You will judge from these remarks, Mr. Chairman, that I am a Cuban annexationist—*sub modo*.

But, sir, it is not only the geographical position and productiveness of the island, but the manner of its acquisition, which will determine its value to us now and hereafter. If the island is purchased, and comes to us peaceably, it will be a blessing to us, and form in due time one (perhaps more) of the richest and most prosperous States of the Union. The population of the island will in a few years be doubled, perhaps tripled, and its staples quintupled. We shall have sugar and tobacco, perhaps coffee, for exports, and all other products desirable for our own use. Havana will become a great world-emporium of commerce, commercial towns will spring up all over the island, and our new coasting trade would afford new scope for enterprise and become a new school for the education and discipline of our hardy mariners. If, on the contrary, the island is conquered from Spain in an unjust war, or a war waged on slight and insufficient provocation, then we may expect, from the ferocity which has signalized all Spanish wars—especially when they partook of the nature of revolution—that Spain will seek to destroy the value of the island by a violent change in its social institutions, which may destroy its productiveness. Spain will act the desperado, and be revenged for her loss. Unable to defend the island against a superior force, she may, resolve as a last resort, to emancipate the African slaves to punish the disloyalty of the Creoles, who would annex the island to the United States, and render the acquisition to us a source of vexation and trouble. And although England and France might not publicly approve of such an act, yet it would clearly meet the views of those Governments, which for the last ten years have sought by every possible means to circumscribe our power on this continent. Official England and France might even advise such a course, though they might be prudent enough not to avow it.

If the Government of Spain were resolved on so inhuman and suicidal a course, it would, indeed, entail no small calamity on us. If the seven hundred thousand slaves on the island of Cuba are once emancipated, then, we are warned by recent proceedings, the people of this country will be divided as regards the proper course to be pursued by our Government; and the domestic troubles that may ensue will in no small degree harass

and perplex our foreign relations, perhaps our plans of operation. Fanaticism, in all ages, has been the bane of humanity; and we need not cherish the delusive hope that the world will ever wholly be governed by reason and justice. If Spain alone, or aided, directly or indirectly, by England or France, should succeed in abolishing slavery in the island of Cuba, and we should acquire it subsequent to that act, it will require a considerable military force to protect the lives of the white inhabitants, and a large expenditure of blood and treasure to reinstate them in their possessions. Then will arise the question whether the reintroduction of slavery into Cuba can be effected without giving rise to one of those terrible sectional struggles which experience has taught us to avoid, if it is possible to do so without abandoning principles essential to the maintenance of the Constitution and the Union. The experience of the past warrants, indeed, the conclusion that the national men would triumph over all obstacles, and that our mission as a people would be fulfilled; but the practical question for a statesman is, whether the same result might not have been obtained in a manner much more direct, and far less expensive, and without renewing the sectional agitation of questions threatening our domestic peace and the prosperity of our institutions.

Mr. Chairman, I can imagine the case in which, even with all these fearful contingencies attached to it, I would still advocate the annexation of Cuba; but I would certainly try other means more congenial with the feelings of the American people to attain the same object. I would not resort to force till all peaceable means are exhausted, and then I should only have recourse to force after being fully prepared to do so, and without leaving to Spain or any other Power the faintest hope of a protracted struggle. Success should not only be probable, it should be certain; and that not only in the end, but at the very outset. It is not my business here to enter into details to show that, in the present state of our Army and Navy, it would be rash, to use no stronger term, to expose our martial reputation to the chances and casualties of a war with a second-rate power; that it would be fatal to the prestige we have acquired during the brief period of our national existence, if obliged to declare war against Spain, for the possession of the Island of Cuba, our military and naval operations against the island were to meet with a check, and our forces were to be repulsed. With the laurels of the Mexican war yet fresh on our brow, the smallest temporary success of Spain would spread a gloom over the land, from the effects of which no subsequent success, however brilliant and complete, could entirely save us. The very fact, that we might be obliged to employ all our disposable means to coerce Spain into a recognition of an unavoidable conclusion would be fatal to our national dignity, while it would lend a certain dignity, bordering on heroism, to her protracted resistance. What if this giant Confederacy, the ocean-bound Republic of the nineteenth century, were to be for months engaged in subduing the island? What if England or France, or any Power, profiting by this delay, were to offer its mediation; in other words, presume to impertinently interfere in this quarrel?

Sir, when we strike a blow for Cuba, it must be but one, and when it is struck, Cuba must be



irretrievably ours; it must be an "accomplished fact," and, as such, invite no interference on the part of other nations. This cannot be done by noisy and wordy diplomacy, or by resolutions in Congress which give the world warning of our intentions, our hopes, and prospects, and the pith and substance of our foreign policy. Nor can it be accomplished by long and formidable discussions in this or the other House, by an attitude of defiance assumed by members or Senators, or by a display of patriotic eloquence whose thunder it is perhaps calculated shall shake the foundation of Moro Castle. These speeches may do a great deal of harm; but they can do no good. They do harm by revealing our position to those who are opposed to us, and by exciting our own people to acts of lawless violence, destructive to themselves, and disreputable to us as a nation. Sir, the power to make war is one of the highest attributes of sovereignty, which cannot be usurped by any body of men within the State; it belongs to the collective power of the Government, and a usurpation of it, even by a sovereign State of this Union, would be a revolution and an act of treason to the Confederacy. From these remarks you may infer, sir, that, though a "Cuban annexationist" *sub modo*, I am opposed to filibusterism *in toto*.

England pursued a different course in India, which she conquered, not by resolutions in Parliament, but by hard fighting, silent diplomacy, skillful management, and, alas! but too often by bribery and treachery. But not a single province was added to the British Empire in Asia by parliamentary heroism; though there were, at all times, naval and military officers enough in the British Parliament to have furnished an apology for such an act. For upwards of sixty years England meditated an attack on China, but patiently waited for a fit occasion to do so. One administration bequeathed its resolve to another, until an opportunity presented itself to strike the first blow with effect. This done, she did not immediately turn her fleet and her army toward Japan, and compel that country to open her ports at once to British commerce. She left that wisely to the United States, and, in the mean time fortified and established herself at Hong Kong. She courted no diplomatic failure, and waited for the return of appetite before setting out for a fresh conquest.

The President of the United States, by the Constitution, has the initiative in all matters belonging to our foreign relations, and it is necessary that it should be so. It is he who selects his Cabinet ministers, and who appoints our diplomatic agents abroad. Foreign ministers and diplomatic agents confer with him and the Secretary of State on all matters concerning their respective Governments, and there is no other way of making propositions to foreign Governments, or of receiving propositions from them except through the medium of the President of the United States and the agents and ministers of his choice.

Resolutions may be introduced into Congress for the purpose of attacking or defending the Administration, or with a view to stimulate public opinion, by a sort of rhetorical filibusterism, as I have already remarked; but it cannot coerce the Administration into the adoption of a course which it deems unwise or inexpedient at a par-

ticular time. As a general rule, these resolutions can only embarrass negotiations, and render the position of our diplomatic agents abroad more difficult than before. They seldom leave sufficient margin for their discretion, and render diplomacy either entirely impossible or superfluous; while, at the same time, they accomplish nothing. Supposing the President and his Cabinet, from all the information at their command, judge that the time for action has not yet arrived, what, then, can possibly be the effect of a resolution introduced into this House, urging him to act, except to establish an antagonism between the Administration and Congress, that exposes our weakness to foreign powers, and our want of harmony to the opposition at home? But suppose the resolutions conform to the views and objects of the Administration, what good can they do it? In what respect will they render its acts more prompt, steady, and effective? Sir, these resolutions are not intended to affect parties abroad; they are intended to influence parties at home; and must necessarily fail of every other object. If some distinguished statesman, known and respected at home and abroad—a man of wide-spread reputation for ability and experience—were to introduce them, they might have some weight with European statesmen, carrying with them the assent and approbation of the American people; but if it were to appear, or be suspected, that these resolutions were introduced merely to afford members an opportunity of talking about our foreign affairs to Buncombe, then it is clear that no attention would be paid to them abroad, and that they could only lessen the dignity and importance which would otherwise attach to propositions made to foreign Powers, in the regular diplomatic way, by the responsible agents of the Government. Congress cannot compel the Executive to make war, if the latter is unwilling to do it; nor can it compel him to make peace, except by refusing the supplies for the Army and Navy. When Congress shall judge that the President has done wrong, or that he neglects his duty to the country, then the Constitution prescribes the mode of impeaching him. I know no other official act by which Congress may interfere with the foreign policy of the Administration. This House is not even invested with the ratifying power, bestowed, from wise considerations, on the Senate; it merely coöperates with the other branches of the Government in the execution of treaties which it has no power to originate. It is necessary for the preservation of our institutions that the powers vested in the different branches of our Government should be kept separate and distinct, and that neither branch should assume the duties and responsibilities of the other. That is the only way which they are sure to move in harmony with each other, and yet preserve that mutual independence of each other which is of the essence of republican government, and insures the greatest amount of efficiency.

But it is said, Mr. Chairman, that we are impelled to these things by "manifest destiny," and I more than half believe it. I believe there are men who, watching the current of popular opinion, are willing to be borne along by its waves, and called "leaders;" while there are others who have not the courage to resist it, even if the current were to carry them over a precipice.

These men, whoever they may be, and whatever station they may occupy, can lay no claims to statesmanship; they are mere jobbers and journeymen politicians. Men of great mind and character impress their thoughts on the age in which they live; but our political jobbers bear the imprint of the popular passion of the hour, and follow the age in whatever folly may be uppermost at the time. Sir, destiny is nothing but the final result of all the tendencies of our moral and physical system; it is the effect of the laws of nature, whose operations, whenever they are most beneficent, are silent and secret, not boisterous and noisy, by fits and starts.

Sir, we have, no doubt, a proud mission to fulfill; but it does not merely consist in the acquisition of territory, and in the extension of power. Our calling is a far nobler one. We must cultivate, fertilize, regenerate the regions which become subject to our rule. It is not merely power, but our institutions and laws, and our higher civilization which we are bound, in the course of time, to carry to the most remote part of this continent and to its neighboring islands. Unless we can regenerate and Americanize what we acquire or annex, we shall not improve on former conquerors, but only add another page to the long catalogue of national crime in the world's history. Now, it appears to me that our Federal institutions are admirably calculated to promote the gradual process of assimilation, and to render that homogeneous for all practical purposes of government, which, from its foreign origin and other local causes, would forever remain separate and distinct, and, on that account incapable of producing great results. Our true expansive power consists in this power of assimilation. We do not conquer and coerce; we attract, assimilate, reorganize. The former is never accomplished without consuming power, and thereby producing waste; the latter is a natural process, combining elements for a new and higher purpose, and adding to the strength of all by giving them unity of direction.

There are three great nations in the history of the world who, thus far, have had the greatest influence on the destiny of mankind. They are the Romans, the English, and the Americans. The genius of Greece was only permitted to theorize and speculate; the Romans, who came after them, were the first to cultivate practical statesmanship, and establish real power. But the expansion of Rome was based on her military prowess, and acknowledged no reciprocal duties of humanity toward the conquerors and the conquered. The defenselessness of the vanquished and the *virtus militaris* of the Roman citizen constituted all her claims to dominion and government. Rome ruled the world, but her sway extended no further than the march of her eagled legions. Rome plundered the world, and devastated empires to enrich her people, yet, after all, enriched but a few families. Rome ruled by the sword alone; the greatest Roman public writer, Cicero, acknowledged no binding obligations between nations in the form of public law. With such a people at the head of the progressive movement, the world could only be divided between masters and slaves.

England added a vast industrial influence to her march of martial power. She conquered and colonized both, and planted, wherever a homogeneous population admitted of it, the seed of self-govern-

ment through representative forms. Rome had the power to constrain; England added to it the faculty to reconstruct. In this consists, indeed, as Edmund Burke justly remarked, the "undying glory of England." Wheresoever a people speaking the English tongue have gone to settle, constitutional forms of government have sprung up, which, in due course of time, must ripen into republicanism. Our own developments, our own Republic, is the proud paragon of all of them, and our destiny may yet be to unite them all, or most of them, into one common brotherhood of nations. England may have established these colonies for a selfish purpose; but the genius of the colonists has turned their creation to a good account. They now accomplish a mission of their own, and have an ever-elocuent example set to their virtue, in the glorious achievement of our own national independence.

If it has not been followed ere this, it is because England relaxed in her pretensions. It is not that these colonies have not yet made sufficient progress, but that the British Government has receded from its absolute supremacy over their domestic and foreign affairs. It has allowed them, as far as it can be done without detriment to England, to manage their own business; but it cannot, in any event, allow the colonists to participate in the direction of public affairs of the mother country, and, without this boon, all the colonies of England, great and small, are naught but satellites, controlled in their motion by the preponderating influence of the ruling planet. They may regulate matters which immediately concern themselves, but they have no influence, and no voice in the British Parliament, which governs England, with whose destiny their own is still linked as with a chain of iron.

The British colonists being not represented in the British Parliament, have no voice for peace or war, and no share in any measure which involves the honor and welfare of the mother country, and through it, their own. An Irishman, holding a seat in the British Parliament may, on the other hand, have a voice in the management of the affairs of the world; but he is powerless in his own country, and cannot procure for it even that species of self-government, which is enjoyed by the people of Canada or Nova Scotia, simply because they are further removed from England. The various degrees of political power, conceded by the English crown to its subjects in Europe, America, Asia, Africa, and New Holland, aims at nothing but the wealth, power, and grandeur of Great Britain, so far as is compatible with the management of the colonies; and though the policy is wiser, and in many respects more humane, consequently more enduring, than that pursued by Rome toward the people subject to her military sway, yet it leads to the same result and struggles for the same object—the increased wealth and power of a single nation at the expense of all the rest, and the endowment of a few ancestral families at home, with fortunes and honors bought with the misery and domestic slavery of the masses.

The third power which appeared on this globe, marking a distinct progress and filling the minds of men, from its infancy, with anxious hopes and expectations, is the UNITED STATES OF AMERICA. Born at an advanced stage in the history of the world, and conceived of strong and



healthy parents, our confederacy of States gave, even at its birth, assurance of its future greatness. Like Hercules, we killed two serpents in our cradle, placed there by the ignorance of the world, not by the malice of a jealous goddess. We destroyed the worldly power of the established church by banishing it from the political arena, and reared in its place the temple of religious tolerance; and we expelled royalty as a useless and expensive political institution. But in assuming the supreme direction of our own affairs, we committed no injustice to others. We did not infringe on the rights of the church or the clergy, in religious matters; and in suppressing royalty, applied merely to our own use, what was already our own.

With the Declaration of Independence of the United States, a new great historical era was ushered into the world, not only for individual freedom, but of liberal political association, insuring and guarantying that freedom. It is the peculiar mode of associating men for the exercise of power which constitutes American freedom and signalizes its superiority over all other Governments; and the distribution of power, under this new association, formed by our ancestors on the rubbish of the old association of church and State, marks as distinct a progress in the art of government as the Revolution itself manifested in men's ideas. True to the doctrine of the Revolution, that all Governments derive their just power from the consent of the governed, the framers of our Constitution had a care to interest all equally in its maintenance, and to let all share proportionally in its power. Not only were the different Colonies who had achieved their independence, united into a representative Confederacy, but individually elevated into sovereign and independent States; delegating to the Federal Government no other powers than those named in the Constitution. While all share in the power of the Federal Government through their representatives in Congress, each has supreme control over the administration of its own affairs, and enjoys, within its own limits, the privileges and immunities of sovereignty. Herein consists the immeasurable superiority of our Confederacy of States, over any system of government as yet recorded in history, and its adaptation to indefinite expansion without loss of power. We have, in less than a century, tripled the number of States composing our Federal Union, without suffering the least perturbation in our political system; and our population has increased from three to twenty-five millions, without complicating the system, or meeting with the least difficulty in the application of the principles which were laid down by our forefathers with so much vigor and simplicity.

Nor is this all. We have, during that brief period, received among us so large a portion of foreign immigrants that their number exceeds alone our whole population during the revolutionary war, and would in itself suffice to add a dozen States to our Confederacy. The monthly arrivals of immigrants from foreign countries average now fifty thousand for the single port of New York, and not less than a million in all the ports of the United States, *per annum*. All these men, and women, and children, or most of them, come here with the crudest political and social notions, with habits and customs not un-

frequently repugnant to our own, and speaking languages which, until they become familiar with our idiom, prevent them from communicating freely with our people. Yet in a few years we absorb this whole vast accretion to our strength. The immigrants have become assimilated with us in labor and enterprise, in customs and manners, in thought and language, and in political ideas. What other people than our own, what other Government than ours, could thus invite all the political, social, and religious heretics of the world to come and sojourn among them, without fear of being ultimately contaminated and overwhelmed? This power of absorbing and assimilating foreign elements is the strongest proof of our historical mission; or, if gentlemen would rather have it, our "manifest destiny;" for it affords the strongest evidence of the superior energy of our people, and the practical advantages of our political institutions. We absorb to elevate; we rule by bestowing on the governed a share of political power. Sir, we are destined to expand by assimilation, and by elevating those who have been misgoverned and oppressed to the rank of freemen; and if we have the power to do that with millions of Europeans who flock to our shores; if our example is constantly working revolutions and changes in the political and social condition of the Old World, why should we not possess the same faculty here, when less powerful States, and more misgoverned people are eager to share the blessings of our institutions and laws? Rome, and the people of Romanic origin, French, Spaniards, Portuguese, have never colonized; they merely planted or transplanted power; the people of England cultivated and improved, but held, and still hold, their colonies in subjection; the Americans alone, for the first time in the history of the world, elevate and regenerate those over whom they extend their sway. We conquer that we may raise the conquered to an equality with ourselves; we annex to assimilate others with us in a higher scale of humanity.

These faculties and purposes of ours constitute our patent right to extend our power and influence over the constituent; it is our mission to instill new life into the feeble and misgoverned people grown on the *débris* of Spanish power in America, and of the colonies still subjected to the withering influence of her rule; but we must not expect to fulfill it in an age, or in a century. We must not be tempted to absorb faster than we can assimilate; and avoid convulsions, when the same object may be attained by the attractive force of our institutions, and the decomposing process now going on among our neighbors. Time, which is against them, operates in our favor; and there is no stride that any European Power can take, and no combination that any of those Powers can form, capable of thwarting our destiny. This country is destined to support a larger population than all Europe—a population of happy, thinking, self-relying men; not a mixture of beggars and princes. And it will, despite the heterogeneous elements which contribute to it, be a population full of national, American sentiments, energetic, free, martial; whose friendship and good will will be an object of solicitude with the different nations of Europe. The present war in Europe will excite a bitterness of feeling, and beget new national jealousies, which will continue long after the con-



clusion of peace, and be an effectual bar to all joint operations against our growing power. England, France, and Spain may yet sojourn in different parts of America. We are at home in it, and shall arrange our household as we please.

But while I have full faith in the mission of our country; while I have no apprehension of any successful interference of any European Power, or any combination of them, in the affairs of this continent; while I believe, if I may indulge in the expression, in the invincibility of the United States, I yet wish that, in our conduct as a great nation, we avoid everything like provocation to the weaker Powers. Let our mission be accomplished by as few collisions with our neighbors as possible. Let the world be convinced of our mission as we are, and let the world see that that mission is compatible with public justice.

There is nothing so disastrous to the rising fortune of an industrious man as the anticipation of his income. It begets looseness of expenditure, and a reckless speculation to meet it, which interferes with the profits of his regular business, and frequently involves him in embarrassment and ruin. The same may be said of nations, especially of industrious nations like our own. Sir, our people are preëminently a business people. We live, it would appear, to work, to amass wealth, and to prepare a better state for our children than we enjoy ourselves. This we call progress, and it deserves the name. We are the first agricultural and planting people on the globe; we are the rivals of England in commerce and navigation; and we are rapidly becoming a great manufacturing people. The acquisition of territory is valuable to us only as far as it affords us additional scope for enterprise and labor. If we over-produce, over-trade, over-speculate, the undue expansion is rapidly followed by a contraction destructive to public and private interests. A gradual expansion and expenditure, predicated on actual income, would be preferable to these oscillations in our march of progress.

The extension of our territory, while easily accomplished under our political and social system, may yet be connected with serious derangements in our financial, commercial, and industrial relations, especially if the extension, to be rendered prac-

ticable, requires the application of force. It then behooves us to calculate the cost of the acquisition, and its prospective value, compared with the immediate sacrifice which it would require at our hands. We may, in the language of Franklin, "pay too dear for the whistle," and we may not get the whistle at all, when, by waiting a little while, we might get it cheap or for nothing. Let us not be too impatient to realize the future, or too prodigal of the means of shaping it to our ends.

We have a great example before us, which is not without its lesson to the United States. There is the colossal power of Russia, growing and expanding like ourselves, increasing in population and wealth, and advancing in civilization and commerce. She has expanded westward and southward as we have, and she has, in this respect, fulfilled a grand mission. Her march could not well be arrested till she had reached Constantinople, and established her power in the Mediterranean. All this was foreseen by the rest of the world, yet no one interposed. Russia, in 1829, advanced within fifty miles of Constantinople without meeting with a solemn protest from either England or France; but wisely contented herself with the peace of Adrianople. She saw that Constantinople was gravitating toward her, and that the time must come when she would have it almost without a blow. But at last Russia became impatient to administer, in the language of her Emperor, on "the estate of a dying man," and what is the consequence? A war, the end of which no one can foretell, and which, during its eventful progress, may destroy her commerce, her industry, and the financial resources of the empire, without bringing her any nearer to the coveted possession of Constantinople than she was before. She may recuperate, renew the combat, and succeed; but, in the mean time, she will have retrograded in wealth and commerce, in the arts of peace, in short, in everything that could have made her acquisition a blessing to herself and the civilized world. By mere impatience a century will have been lost to the progress of mankind, and to the amelioration of our race! A solemn warning for future nations to, like us, reject in folly or heed in wisdom.









CHARGE

OF THE

**HON. JOSEPH E. N. LEWIS,**

COUNTY JUDGE OF BUTTE COUNTY,

TO THE

**GRAND JURY,**

DELIVERED AT

THE JUNE TERM OF THE COURT OF SESSIONS, 1854.

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BIDWELL:  
PRINTED BY GEO. H. CROSETTE, "RECORD" OFFICE.  
1854.





## CHARGE TO THE GRAND JURY.

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### *Gentlemen of the Grand Jury:*

You have been convened from the electors of this county by authority of law, to perform the duties of the Grand Inquest at this term of the Court. Your duties are honorable and responsible, and impose upon you a necessity in pursuing the course prescribed by the law of being attentive, dispassionate and considerate.

The federal and state constitutions, those palladiums of American liberty, that embody in an eminent degree the experience of ages, and the immutable principles of justice, have guaranteed to all persons within the scope of their authority, that they shall not be called to "answer for a capital or other infamous crime unless on a presentment of a grand jury." The state constitution and the laws enacted to give force and efficacy to that instrument, guarantee a speedy and public trial to all persons who have been arrested charged with having violated the criminal law. Thus you perceive that, there is a system and a method in our criminal jurisprudence; and upon a just and stern enforcement of that system depends the efficiency of our government, the prosperity and security of our citizens. You, gentlemen, who are now assembled are the motive, moving power in that system—its life and vitality. Without your sanction and approbation it is powerless. The greatest offenders against law and justice, morality and public tranquility will be permitted to go at large and to continue their depredations. Our criminal jurisprudence can be vindicated only through you. You have been set apart shielded and protected with the authority and majesty of the people, as sentinels to guard their morals and safety, and to protect their rights

against wrong doers—to hear—to see and to feel for their interest. How well you may deserve the honorable post that has been assigned you, will be for the public to decide after you shall have been discharged, and return to mingle with your fellow citizens again.

Your duties are those that have been prescribed by the statutes. They are plain and cannot be mistaken. Every public wrong that has been committed in this county, whether against the government, its revenues or individuals, it is your duty to examine into, and if the evidence be of that character that would, unexplained, warrant a conviction, to present a "true bill." No offence committed in this county is beyond your jurisdiction!—no person, however exalted or low, may be his position in life, who is charged with having committed that offence can, or should escape your investigation. Your duty and authority are commensurate with the law, and you have ample power, with the assistance of the Court, to have brought before you such evidence as you may deem necessary to assist you in your investigations.

In a country like ours, with a population that embraces emigrants from every land, clime and tongue, swayed and governed by conflicting passions, interests and prejudices, it will not be improbable that you may be called upon to investigate many and various classes of crime and to present the same for trial. To aid and assist you in this duty, we cannot do better than to present to your consideration the statutes that define public wrongs. By no other law can, or should you be governed. It is supreme, and should be enforced with

promptness and fearlessness that it may strike terror and dismay to all wrong doers—that it may be a “terror only to evil doers, a praise to them that do well.” By no other law can wrong doers be brought to condign punishment. By no other law can that hope and confidence be inspired in the public mind that will produce a wholesome reality, that they were made for the public good and not for oppression or extortion.

The highest crime known to the law is treason, which is an offence against the government. It is by no means probable that you will be called upon to investigate any charge of that character. In a country where the government is the work of the people—where its very foundations rest upon the sovereign will—where the whole fabric in every part and minutie is controlled by that will—with an inherent and inalienable right in the people to remodel, or to change the entire fabric, it is hardly possible under such circumstances that, that offence either has or will be committed. Undoubtedly there are public functionaries, as well as aspirants to official position, power and patronage, who are swayed by sordid interest, or by an inordinate ambition to be clothed in the paraphernalia and insignia of office as to prostitute their position to individual aggrandizement, and to accomplish such purposes do not scruple to bid defiance to public sentiment, not only in the assumption of power not given, but in the consummation of schemes, projects, measures and laws that the people abhor. Against such offenders there may be no positive enactment, that will reach them, yet these insidious assassins against popular sovereignty and will are not less reprehensible than the bold and daring traitor, or rebel, who has conspired to pull down the very temples of liberty, and to subvert a government that has secured to them manifold blessings, and that may be the pride and admiration of freemen everywhere. Such offenders can only find their punishment in a crushing condemnation, by a virtuous, indignant, unbought and an incorruptible constituency. And such wrongs can only find their remedy in a vigorous, healthy public opinion, that unseen, unfelt, irresistible power that controls the man's and the nation's destiny.

Murder is defined to be the unlawful killing of a human being with malice aforethought, either expressed or implied. The unlawful killing may be effected by any of the various means by which death may be occasioned. Malice in every instance is implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

The homicide being established, the burden of proving circumstances of mitigation or that justify the homicide, will devolve upon the accused. In every homicide malice is presumed, and the accused must rebut that presumption.

Manslaughter is the unlawful killing of a human being without malice expressed or implied, and without any mixture of deliberation. It must be voluntary, upon a sudden heat of passion caused by a provocation apparently sufficient to make the passion irresistible, or involuntary in the commission of an unlawful act, or a lawful act without due caution or circumspection.—

In voluntary manslaughter, the killing must be the result of that sudden violent impulse of passion supposed to be irresistible; for if there should appear to have been an interval between the assault or provocation given and the killing, sufficient for the voice of reason and humanity to be heard, the killing shall be attributed to deliberate revenge and punished as murder. The homicide is in that case murder,

Involuntary manslaughter consists in the killing of a human being without any intent so to do, in the commission of an unlawful act, or lawful act, which probably might produce such a consequence in an unlawful manner. Should however such killing happen in the commission of an unlawful act, which in its consequences naturally tends to destroy the life of a human being, or is committed in the prosecution of a felonious intent, the offence in those cases shall be deemed and adjudged to be murder.

Justifiable homicide is the killing of a human being in necessary self defence, or in defence of habitation, property or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony or against any person or persons who manifestly intend and endeavor, in a violent, riotous or tumultuous manner, to enter the habitation of another for the purpose of assaulting or offering personal violence to any person dwelling or being therein.

A bare fear of any of these offences, to prevent which the homicide is alleged to have been committed, will not be sufficient to justify the killing. It must appear that the circumstances were sufficient to excite the fears of a reasonable person, and that the party killing acted under such an influence and not in a spirit of revenge.

Should the facts and the circumstances show that the fears were not well founded, were insufficient in a reasonable person to impel him by their influence to commit the homicide, it will be murder. And further, should it be made to appear that at the time, that the alleged attempt or endeavor with violence or surprise to commit a felony, the homicide was not necessary to prevent the alleged felony, such killing will be murder. We are only justified in killing a human being when the facts in the case establish a necessity in the mind of a reasonable person, that such killing is necessary to prevent the consummation of a public wrong, either upon our person or property, or upon the person of some other human being. If the homicide shall take place either before that necessity shall arise, or after that necessity shall cease, it will be murder and should be punished as such.

In every voluntary homicide there is a felony. If the party killing be justified, the deceased has committed the felony as much as if he had put an end to his existence by applying the fatal stroke himself. Between the living and the dead there is in such cases a felony. The living when guilty, we can punish; the dead is beyond our reach, alike insensible to our torture or praise.—No earthly power can arouse him to a consciousness either of his innocence or guilt—he is heedless of all around, and in death he has received the just punishment that was inflicted upon him for his felonious aggressions upon others rights.

There are other justifiable homicides, such as judicial executions, or when an officer or private person is justified in arresting a person charged with having committed an offence, and is resisted and assailed, he shall be justified if he kill the assailant. He shall also be justified in such killing, if the same shall be necessary to prevent an escape, either of a convict or an accused.

Excusable homicide by misadventure, is where a person is doing a lawful act, without any intention of killing, yet notwithstanding kill another.

To make homicide either murder or manslaughter, it is requisite that the party die within a year and a day after the stroke is received, or the cause of death administered.

To constitute this and all other crimes, they must be committed by a person of sound mind and not under fourteen years of age.

Drunkenness is not an excuse for any crime, unless occasioned by some other person by fraud, contrivance or force with an evil intent in which case the person or persons causing such drunkenness for such evil purpose, shall be considered as the offenders and punished as such.

[Here his Honor proceeded to define other wrongs, and then continued:]

We deem it our duty on this occasion, gentlemen, to call your attention to all the public offices in the county that you may examine into the manner in which they have been kept. To see whether there has been any malfeasance—any corruption—any unlawful fees charged or speculations with the public money by the officers; and to enable you to carry out this investigation, "You are entitled to free access at all reasonable times, to the public prisons, and to the examination without charge, of all public records within the county." You should also see whether the Justices of the Peace have accounted for, and paid over to the proper authorities, all fines or other public monies collected in their courts or by them, and should you in this investigation detect a violation of the law, you should in every case present the offenders for trial and punishment.—Officers must appreciate official responsibility, and if they do not, they must be made to feel that there is a coercive power that overlooks them. It is only by a faithful compliance with the law by those who have been placed in office, that the public can be assured that the money committed to their custody will be properly accounted for. And if those whom a confiding constituency have trusted and honored, will not discharge their duties faithfully, the sooner they are discharged from public service the better.

We would also call your attention to offences against the public revenue. It is important that this branch of the government should be faithfully executed—for it is that which gives strength and stability to the government itself—it is as essential as the government, for it is its life and vitality; every violation of that law, therefore, must be promptly punished. It consists principally in carrying on some business or trade without a license—such as in keeping public houses of entertainment, or gambling; the selling of liquors by wholesale or retail; the vending of goods, wares and

merchandise—the buying and selling of gold dust—the keeping of a ten pin alley, or billiard table—the huckstering of produce not raised by the party so vended—the selling butcher's meat, and such like.

Experience, gentlemen, has demonstrated, that, those who are most given to violating the revenue laws, are most prone to commit the more serious public wrongs, and if for no other reason, as a matter of public policy, they should be made in every instance to comply with law, that they may have a lively consciousness that there is a power greater than they, and that they may in this wise, be made to liquidate the expenses that may be incurred in punishing them for their iniquity.

You will, gentlemen, in entering upon your duties first dispose of the commitments that have been sent up from the different Magistrates in the county. You will then proceed to investigate such other business as may be presented to you. It is your imperative duty, by the oaths you have taken, to present persons who have committed indictable offences, that may be within your or either of your knowledge. A remissness in this respect, is a dereliction in duty, which is perjury.

You should receive none but legal evidence, and only in extreme cases where there is a certainty that there is evidence that will conclusively rebut the charge, should you receive evidence for the accused. And whenever the evidence unexplained or uncontradicted, would warrant a conviction by a trial jury, you should find a "True Bill." It requires not less than twelve to find a true bill, and whenever twelve or more agree to do so, the foreman will so endorse and sign it, whether he agrees to the finding or not. The names of all the witnesses must also be endorsed upon the bill, on whose testimony the bill was found.

The depositions and papers in the commitments, when you are satisfied that the evidence does not support the charge, the foreman will endorse on the same that the charge is dismissed. The Foreman shall swear all witnesses that may be brought before you. Your deliberations should be private. You should not divulge any matters that may come before you. No person should be present, while voting on or discussing the evidence. The indictments that you may find, shall be presented to the Court in the presence of the Jury, by the Foreman.

Whenever the evidence establish the commission of a public offence by the accused, and you have doubts as to the degree, you should in all such cases present a bill for the highest offence or degree.

We cannot close this charge, gentlemen, without urging upon you the imperious necessity of a fearless and dispassionate investigation of every public offence, that may be presented to you, or that may be within your own knowledge.

You should not permit yourselves to be governed by a morbid sensibility, that this or that law is unjust or oppressive and therefore should not be enforced—that this or that person was ignorant of the law, and therefore should not be presented—for such ignorance excuseth no man. Were you to permit yourselves to be governed by such considerations, government would be dissolved into its original elements, society would be



governed, not by any general, supreme, well defined, rule of action, but by an ever varying, shifting view that may be taken by individuals. What you might conceive to be unjust or oppressive, those who may be called hereafter to occupy your present position, might view in a different light. Such laws as you might conceive just and proper, they might consider to be harsh and vindictive; and thus between contending and conflicting individual views, government would be destroyed, laws would be but the concrete symbol of a shadow without a substance. That which should be strong and powerful for good, would become weakness, a prey to passion and selfishness.

We are not, gentlemen, called upon to decide what the law in any given case should be, but what it is. So long as it is upon the Statute Book, there placed by rightful authority, it is our duty to enforce it, and the duty of all to give submission. Should there be laws that are detrimental to society, they ought and should be repealed by the constituted authorities. But whilst in existence they should be enforced, that their defects or virtues may be more fully developed—that they may become more conspicuous, and draw to their consideration the intellect and virtue of the State—which by constitutional means, will effect a remedy and will give to the public a more judicious and enlightened jurisprudence.

It has gentlemen pleased Divine Providence to cast our lot in a country, for which we should be grateful, and of which, we should be proud for many things. We should be proud of her independence—we should be proud of her liberty—we should be proud of her magnificent domain—we should be proud of her many institutions of learning and benevolence—we should be proud of her public spirit, of her enlightened patriotism and above all we should be proud of her pure public justice. Everywhere, when the law is faithfully executed, we see its benign influence overspreading the country, showering its richness and freshness upon the land, vivifying and fructifying all the various branches of industry and warning into existence a prosperity, that is radiant with all that can delight, enlighten or subserve mankind. And even under such a system of jurisprudence resting as it does upon the sovereign will, it is a lamentable fact, that there are many turbulent and insubordinate spirits in our country, that chafe under wholesome restraints, and are ready on all occasions not only to spurn and resist the execution, but to violate the law in robbing, plundering, and murdering their fellow beings, and in committing depredations upon their property. And there is also another class of offenders not less criminal, that, have on several occasions made their appearance here. I mean those persons, who have assumed to themselves sovereign authority in arresting, trying and punishing persons, whom, they conceive in their mobocracy to have committed some public offence. Such offenders in all organized communities, where the law is well established and defined are criminals, and are even more reprehensible than the vilest offenders—because they are more powerful for evil—because they desecrate the temples

of justice and invoke a genius to consecrate their usurpations, that abhors their deeds of blood, revenge, passion and malice. We are however at least disposed to be candid and will admit, that, perhaps the Huns and Alans while destroying and desecrating the monuments of Grecian and Roman art, thought as favorably of their work, as the mob of theirs, while trying and punishing their unfortunate victims, crinating themselves and disgracing their government. Such offenders do not deserve any greater favor, than other offenders, and you may be assured that in no instance, shall they receive a more favorable consideration from the Court. Such conspirators against law and order, do not deserve the clemency of that authority, that, they deride and denounce and by their acts and persuasions, exert their utmost to humiliate and bring in disrepute with the citizen. Did these self constituted avengers of public and private wrongs, but, exert half the energy and determination in bringing their unfortunate victims to trial and judgement, before the constituted authorities, that they do in trampling upon the law and in outraging humanity, justice would be better subserved and they might be spared the mortifications when reason shall have resumed her throne, that a lively consciousness of their misdeeds will overwhelm them with.

Gentlemen, let designing men denounce the government and the laws as they may—let criminals at heart and in deed spurn their authority as they would—let corrupt politicians pander to all the vices, passions and corruptions of the age as they do, to raise an influence by their united efforts against law, it will not in the end accomplish their object. It is a principle in the economy of the human race, in all its different phases, that, is as immutable as the attributes of the Deity, that man can neither exist or flourish without society, that society can neither exist or flourish without government—that government can neither exist or flourish without laws and that laws are powerless for good, unless enforced and obeyed. Man is emphatically a social animal. His very nature and the nature of his existence imposes society upon him. He could neither exist or flourish without. He enters life absolutely helpless; in a condition that requires a parent's fostering care to develope his instinct, his attributes, and the security which society alone can give, to shield him from violence.—The primary object in every individual member of society, originating as it does in individual weakness, is security—security against the dangers that assail—security against the dangers that threaten to destroy, and to drive at a distance everything by which that security might be invaded. Endowed by a beneficent Creator with attributes, that are God-like, man needs society that they may be developed—that his intellect may be brightened—that his excellencies may be cherished—that his virtues may be matured—that his happiness may be secured, and that his illustrious examples may stimulate others to a like success. Whilst society is indispensably necessary to secure individual safety and prosperity. Government is absolutely necessary to secure the collective safety. It is necessary to preserve peace by such regulations as may prevent, redress or punish the wrongs that one people or nation may inflict

upon others, and to place themselves in a condition that will enable them to exact a like respect for their right. It is also necessary to order and establish matters at home with a due regard to the equal rights of all:—securing to each and all her citizens the tranquil enjoyment of life, liberty, happiness and prosperity, removing every restriction that might impede the various channels of humane industry and effort—opening every valuable avenue to enterprise and “providing remedies for all injuries, prescribing punishments for all crimes and enforcing all those regulations by a well arranged system of jurisprudence.” It is also necessary to enable a people to extend their empire and dominion—to disseminate their principles of government and religion, and by the increased facilities that it affords for intercommunication with other nations, to adopt their improvements and intelligence, and at the same time impart to them such information as may advance their prosperity. Without its strong arm to shield and protect its apostles, christianity stands abashed and powerless; the great orb of Divine light, becomes arrested in its evangelic progress, by the violence of the contending spirits, that, fear not the apostles strength, that is unsupported by an avenging government.

As government is necessary for society—so are laws necessary for government, for society and individuals. They define the rule of humane action. They prescribe the rule by which individuals and nations shall be governed; and when they are well established and defined, each then, may know how far they can go without trespassing upon others rights. As the heavenly bodies move on orb within orb, cycle within cycle in apparent confusion but in actual uninterrupted, unalterable harmony, controlled by the laws of an invisible and unaccountable power,—so individuals and nations with all their various passions, prejudices and conflicting interests are made to move on within their respective sphere, mingling and commingling the one with the other in apparent confusion, but mostly, in actual harmony by the laws of sovereignty, each conflict but demonstrates a necessity, that, there should be some supreme power recognized by all to restore harmony to the system.

It hath been said that “Law hath dominion over all things—over universal mind and matter.” The mind and the operations of our sensibilities, it is said, are governed by certain defined laws. We move and we rest—we love, fear and hate according to the laws that are peculiar to our organization. The whole universe is full of law. It pervades all time, space and matter. It is omnipresent and omniscient. It sees every thing. It is present with us everywhere asleep or awake, in prosperity or adversity, upon the land or the watery deep, even, as the eye of the Deity it overlooks all our acts—nothing can escape it. Nothing is left to chance or to move at random. All substance animate and inanimate are governed by some law—they are evidently essential emanations from a self poised Divinity. The judicious Hooker has affirmed. “Of law there can be no less acknowledged, than that her seat is the bosom of God—her voice the harmony of the world. All things in heaven and earth do her homage—the very least as

feeling her care, and the greatest as not exempt from her power. Both angels and men, and creatures, of what condition soever, though each in different sort and manner, ye’ all, with uniform consent, admiring her as the mother of their peace and joy.” The Deity himself is not free from the dominion of law. He is controlled by the laws of infinite goodness, mercy and justice and “His perfection is limited by right and cannot trespass unto wrong?”—and shall man, degenerate man with all his impudence and audacity, the feeble representative of the infinite in power and perfection claim and enjoy an exemption from this universal dominion? Has he a prerogative in this respect, that neither God nor angels enjoy, that give him a divine right to denounce its dominion to place himself above and beyond all law and its constituted authorities?—Who concedes it? None! Not even the degenerate apostate of Adam who vociferates let us be without law.

As there is then a necessity for society—a necessity for government—a necessity for laws, we are satisfied that the necessity for their enforcement as a principle must be paramount to all other necessities and that the duty of obedience to them, paramount to all other duties.

We shall not continue, Gentlemen, this investigation any further. It requires no metaphysical argument, or hoary precedents to convince us in our dispassionate moments, that all laws established by rightful authority should and must be enforced, or the government ceases to govern. It becomes by such omissions virtually overturned and resolved into its original, individual elements. In such a case, we establish a reign of terror. We substitute for the sanctity of law and order the wild, uncontrollable, licentious passions of an infuriated mob. Their government subverts the legitimate one. For a judicious government, the spirit of misrule, confusion, anarchy and rebellion is substituted—a tumultuous violence disencumbered with any legal restraint, fired by passion, malice or by the hopes of plunder or revenge urging them on to crime and blood is substituted for the serenity of order. In such a case also, none can conjecture what course will ensure him safety. “There is no law to guide him, no tribunal to which he can appeal but the power of the multitude swayed by their own lawless uncumbered and ever varying passions.” With such unrestrained irrational power and uncertainties, no other condition of a people or society can be worse.

Feeling as we do, gentlemen, that you are conscious that this government and the laws were ordained and established by yourselves, and not forced upon you by a despotism, that you have the power and the right, to annul or remodel them even as you created them, and that they should be enforced at all hazards, until changed by rightful authority; and being convinced that you will, not only as Grand Jurors, but as men who have identified yourselves with our young and vigorous State, in your private works, by example and precept, exert your utmost to put down insubordination, to find out public offenders and to bring them to a just punishment—we submit your duty to you, conscious that you will discharge it without fear, favor, malice or affection.





26.  
SPEECH

OF

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HON. J. A. M<sup>C</sup>DOUGALL,

OF CALIFORNIA,

ON THE

CONFISCATION OF PROPERTY.

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DELIVERED

IN THE SENATE OF THE UNITED STATES,

March 12, 1862.

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# SPEECH

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## HON. J. A. M<sup>C</sup>DOUGALL,

OF CALIFORNIA,

ON THE

### CONFISCATION OF PROPERTY.

DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH 13, 1862.

The Senate having under consideration the bill to confiscate the property and free the slaves of the rebels, Mr. McDougall said:

MR. PRESIDENT: The magnitude of the measure now before the Senate demands of us a very full investigation into its merits both as a measure of policy and law. In my opinion, there has been no measure brought before this Congress, perhaps none before any Congress since the Government was organized, involving graver and more important subjects of inquiry, more fruitful of consequences to us not only at the present time but for long years to come. I shall be pardoned then, sir, I trust, if I depart from my usual mode of brief observation, and, with some care and labor, undertake to present to the Senate the views and arguments that have governed my conclusions on this subject.

The present colossal war has been organized against and forced upon the Republic by a body of conspirators hostile to our own free institutions and to free government throughout the world. The sacrifice of human life, the desolations of civil war, and the vast burden of public debt with which they are justly chargeable did seem to me to justify almost any degree of penal visitation and almost any measure of reprisal or confiscation. I suppose it has been the opinion of Senators generally that some such legislation as is now proposed would be both just and salutary. I can at least say such were the opinions I entertained. Some such measure—I will not say this measure—seemed to me to be a just and reasonable war policy. A particular measure, however, has been brought before us, and our action demanded. The time has come when we have to investigate the measure and the principles upon which it is founded; the soundness of the measure as one of present policy; what will be its effects in the future; and its character, either as instance or precedent, in history.

I must say, that when I first read this bill, it struck me as one, if to be established as law, fraught with very important results. The magnitude of those results have *grown upon* me by contemplation. The bill itself has two important features; the first of which is a general provision for confiscating property, real and personal, of all persons found in arms



against the Government, or lending aid and comfort to the enemy, with the machinery for carrying that provision into effect. As I propose to be careful in the statement of my remarks, I will read the sections of this bill which I propose to make the subject of discussion and consideration :

*Be it enacted, &c.*, That the property, real and personal, of every kind whatsoever, both corporeal and incorporeal, and including choses in action, and wheresoever situated, within the limits of the United States, belonging to any person or persons beyond the jurisdiction of the same, or to any person or persons in any State or district, within the United States, now in a state of insurrection and rebellion against the authority thereof, so that in either case the ordinary process of law cannot be served upon them, who shall, during the present rebellion be found in arms against the United States, or giving aid and comfort to said rebellion, shall be forfeited and confiscated to the United States ; and such forfeiture shall take immediate effect upon the commission of the act of forfeiture, and all right, title, and claim of the person committing such act, together with the right or power to dispose of or alienate his property of any and every description, shall instantly cease and determine, and the same shall at once vest in the United States.

This act proposes "instantly" to operate a general confiscation. The machinery through which the act is to be made effective is provided in section four, as follows :

That it shall be the duty of the President of the United States, as often as in his opinion the military necessities of the Army, or the safety, interest, and welfare of the United States, in regard to the suppression of the rebellion, shall require, to order the seizure and appropriation, by such officers, military or civil, as he may designate for the purpose, of any and all property confiscated and forfeited under and by virtue of this act, situated and being in any district of the United States, beyond the reach of civil process in the ordinary course of judicial proceedings by reason of such rebellion, and the sale or other disposition of said property, or so much of it as he shall deem advisable.

The fifth section provides :

That it shall be the duty of the officers so designated to make to the President full reports of their proceedings under such orders, which report shall be filed in the office of the Secretary of the Treasury ; and all moneys received on the sale of the confiscated property of any person as aforesaid shall be deposited in the United States Treasury.

The second section provides for the disposition of persons held to service or labor in the rebellious States ; and among other things it contains this provision :

And whenever any person claiming to be entitled to the service or labor of any other person declared to be discharged from such labor or service under the provisions of this act, shall seek to enforce such claim, he shall, in the first instance, and before any order for the surrender of the person whose service is claimed, establish not only his title to such service, as now provided by law, but also that he is, and has been during the existing rebellion, loyal to the Government of the United States.

The third section is in these words :

That it shall be the duty of the President of the United States to make provision for the transportation, colonization, and settlement in some tropical country, beyond the limits of the United States, of such persons of the African race made free by the provisions of this act as may be willing to emigrate, having first obtained the consent of the Government of said country to their protection and settlement within the same, with all the rights and privileges of freemen.

The magnitude of this measure appears upon its face, and in considering it I have sought to withdraw myself from the angry influences that prevail in every country during all times of war, and particularly in times of civil strife. I have sought my opinions and arrived at my conclusions upon consultation with those great and wise men who have been the acknowledged masters of opinion throughout the civilized world for many ages. I shall undertake to produce their views and opinions, and shall have but few arguments or opinions of my own to advance for the consideration of the Senate.

Before, however, entering particularly into the discussion of these considerations as they are furnished to us by the great authorities of the past, I will call the attention of the Senate to a slight glance at our past condition and make at least one question as to our course in the future. It is not two years since that peace prevailed throughout all this land. It is not two years since there was a brotherhood among our own people of all parts of this Confederacy. The man from Maine was at home in Louisiana ; the man from Florida was at home on the banks of the Oregon. At that time

a large majority of the people of all the southern States, with perhaps the exception of South Carolina, were friends of this Government. After the period I have named, eloquent voices were heard throughout all the South advocating the Union, the maintenance of the integrity of the entire Union. Since then, Kentucky and Tennessee, by their popular voice, declared at the ballot-box their attachment to the Union.

The estimate placed by the leading conspirators upon the popular sentiment of other southern States can be well understood from the fact that they did not dare to submit the acts of secession, managed and produced by a few leaders, to the popular voice.

For many years a small band of desperate conspirators, by careful and secret organization, have been endeavoring to effect the result we now witness. How did they proceed? They proceeded with a fixed and definite purpose; they organized secret societies with that common purpose; they affiliated with all parties for that same purpose; they got possession of the Executive chairs of the various southern States; they got possession by management of their Legislative Assemblies; they got possession of their military organizations; they got possession of all the State and Federal arms throughout the South, and what they had not of their own right they procured through the agency of the conspirators within and about this Capitol. The result was, that when the standard of rebellion was raised these conspirators had brought about them the violent, the desperate, the reckless, and the worthless portion of the community throughout the South, (there, as well as elsewhere, too numerous,) with arms in their hands; and they overwhelmed, compelled, and subdued the large majority of true and loyal men throughout the South, who found themselves surprised without arms or organization.

What I now state is illustrated by what we are at present witnessing. The loyal men who receive our troops on the banks of the Cumberland and the Tennessee with shouts and with tears of joy are not men who have changed their opinions on this subject. They have been compelled for the sake of their lives, of their families—from necessity, if you please—to remain silent, and even to go so far as to express sentiments they do not in fact entertain; but the flag of the Union is as dear to them now as it is to us. It has been evidenced there; and I undertake to say the same exhibition of sentiment will be continued wherever that flag is moved throughout the States now in rebellion.

Then at least we have no right to say that the people of the southern States are in fact disloyal. They are unarmed and subject. What is it that is proposed to be done? Is there any one here in the Senate, a lover of his country, of the institutions established of old, under which we have prospered, who does not earnestly desire the re-establishment of those institutions and the return of peace bringing with it in its train happiness and prosperity? If this is to be accomplished, in what spirit is it to be accomplished? Is it by subjugation? Is it by making the people of the South go under the yoke? They will have to be subjected, not subjugated—subjected, not to you or me; not the South to the North; but be made subject to the Constitution and the laws of the Union, and when they have been made in truth subject to the Constitution and the laws, then peace will have returned again.

Sir, as far as I am able to read of the wisdom taught by the history and counselings of the past, the measure now proposed can never secure peace. The policy involved in it will continue an angry, remorseless,



relentless war, which, if it do not involve subjugation, will involve extirpation. I fear that the country, and not only the country but the Senate have been led wild with anger; that they have caught some of the angry spirit of their adversaries, and instead of taking lessons from the great States of the world, and the great teachers of ancient and modern times, have taken their advice from Richmond and Montgomery.

Now, Mr. President, I propose to read something of what is and has been the rule of clemency in war among States both in the ancient and modern times. It is well known that the great council of the Greek States, established in the most remote period beyond historical records, the Amphictyonic Council, was established for the purpose of promoting the laws of humanity in time of war between the confederated States—that such was the great office of that council. While war might be carried on against the barbarians beyond the confederacy or with other Governments with a relentless arm, a war against a rebellious city or of the confederacy was limited by fixed laws, laws enforced by oaths imposed upon the leaders who conducted the forces into battle. One of those rules was that they should not destroy a confederate city; another, that they should not cut off the supply of water during a siege; another, that they should not be guilty of the crime of sacrilege. They were not permitted to pursue their adversaries who had sought sanctuary in the temple of the Delphian god. They were not permitted to rob those temples of the consecrated treasures. Other provisions were made of the same character. Their office was to restrain the violence of war among the Greek States. They were much more considerate of their own people, though in rebellion, or though violating the compacts upon which the council was established, than they were of strangers.

On the subject of how the Romans carried on war, and how, while adopting a liberal and generous policy, they extended their city and the strength and wealth of their State, and how, afterwards, by adopting the contrary policy, they made, instead of friends, enemies, we have the benefit of the opinion of a man most eminent for wisdom. I will read a few passages cited by Wheaton from Cicero:

"In private life we ought, perhaps, to be satisfied with the repentance of an enemy, testified in such manner as to render impossible fresh aggression on his part, and to intimidate others from committing the like offence. In public relations, the laws of war are to be strictly observed; for there are two modes of settling controversies, one by discussion, the other by resort to force. The first is proper to man, the second to brutes, and ought never to be resorted to except where the former is unavailable. The sole object of war is to enable us to live undisturbed in peace; and victory spares the conquered, unless they have forfeited their title to forbearance by first violating the laws of war in practicing cruelty. Thus the old Romans accorded the political rights of the city to the Tuscans, Sabines, and others; but they razed to the ground Carthage and Numantia. The destruction of Corinth was certainly to be regretted; but the severe conduct of the Romans towards that city was explained by the fact of its local position favoring a renewal of the war. According to Cicero's opinion, however, an offer of peace which has nothing insidious in its terms ought never to be refused. It is not only a duty to spare the vanquished, but to give quarter to the garrison of a besieged town offering to surrender after a breach made in the walls. He asserts that this rule had been so scrupulously observed by his countrymen that those generals who had received the submission of conquered cities or nations became their patrons, according to the ancient law and custom."

"The oblivion of these principles of justice and mercy by the Romans in their conduct towards other nations was, according to Cicero, the main cause of the decline and fall of the republic, which he affirms to have been well merited, and as it were awarded by the justice of the gods. 'So long as the Roman people,' says he, 'maintained its empire by benefits and not by injuries, so long as it carried on wars either to extend its empire, or in defence of its allies, those wars were terminated by acts of clemency, or of necessary severity. The senate was an asylum for kings, people, and nations. Our magistrates and generals placed their chief glory in protecting with justice and fidelity the provinces and allies. Thus Rome merited the name of patroness rather than that of mistress of the world. These usages and this discipline have long been gradually declining, and with the triumph of Sylla disappeared altogether.'

An instance is cited by Vattel where an ambassador came from Priver-num, then at war with Rome, suing for peace; and it is cited by that



author as an example worthy of admiration. The question put by the Roman Senate to the ambassador was, "if we grant you clemency, what dependence can we have on the peace you come to sue for?" The ambassador replied, "if you grant it on reasonable conditions it will be safe and permanent, otherwise it will not last long." Some objected to the boldness of this reply; but the body of the Senate approved of his answer, considering it the proper language of a free man representing a free people. Grotius has given us a number of cases, with his own opinions upon this same subject, of clemency in war:

"Though it be not properly my design to inquire what is now most practiced, but to reduce the extravagant license of making war to what natural equity allows, or what is best among things lawful; yet virtue itself, little esteemed in this age, ought to forgive me if, while she is by herself neglected, I set a value upon her on the account of her advantages. First, then, moderation observed in preserving those things which do not lengthen out the war, takes from the enemy a powerful weapon—*desperation*. Archidamus thus speaks in Thucydides: 'Look upon the enemy's country as an hostage, and so much the better the more it is enriched, and with the more reason to be spared, lest despair should render the enemy more formidable.' The same was the advice of Agesilaus, when, against the opinion of the Achians, he gave the Acarnanians free liberty to sow their corn, saying, the more they sowed, the more desirous they would be of peace. And to this purpose in the Satyr:

"*Spoilatis arma super sunt.*"

"*The plundered still have desperate arms.*"

"Livy tells us, when the Gauls had taken a city, their chief commanders would not let all the houses be burned; that what they left standing of the town the enemies might look on it as a particular favor, and thereby it might be a means to make them more easy.

"Besides, the sparing of an enemy's country during a war looks as if we were pretty confident of a complete victory. And clemency is of itself a proper instrument to soften and pacify the minds of men. Hannibal, according to Livy, wasted none of the lands of the Tarentines, but not of modesty, either in general or soldiers, but to gain the Tarentines to his party. For the same reason did Augustus Cæsar forbear plundering Pannonia. Dio gives the reason; he hoped to win them without blows. And Timotheus, upon the same account, (as Polyænus relates,) and for some other considerations, gained upon the affections of his enemies. Plutarch, mentioning the moderation of Quintus, and the Romans that were with him (in Greece,) adds this: 'They quickly reaped the benefit of his forbearance, for as soon as he came into Thessaly the cities readily yielded to him. The Greeks also which dwelt within the Thermopylæ earnestly desired his coming; and the Acæans renouncing the friendship of Philip, immediately confederated with the Romans against him.' Frontinus informs us that a city of the Ligones, having escaped a fearful devastation in the war made by Domitian, under the conduct of Cerealis, against Civilis, the Batavian, and his associates, because, beyond their expectation, they had lost nothing of their goods, submitting to his obedience, they furnished him with seventy thousand men well armed.

"Contrary counsels have met with contrary success. Livy gives an instance in Hannibal, by nature much inclined covetousness and cruelty, to destroy what he could not keep, that he might leave nothing to the enemy but wasted lands. And this counsel was wretched both in the cause and the effect. For he not only lost the affections of those whom he thus barbarously used, but of others also, for the terror of the example reached beyond the immediate sufferers."—*Grotius on the Rights of War and Peace*, vol. 3, pp. 220, 222.

An instance of the same kind is given by Vattel. He cites the case of Henry IV of France struggling against his own people for his crown. After conducting a victorious war against them, such were his acts of clemency during that war, that there was no more loyal people to their prince in Europe than the people of France to Henry IV. It is cited in contradistinction to the conduct of the Duke of Alva, representing Spain in the low countries, where, although his acts of tyranny for the time subjected the States then in revolt against Spanish authority, yet afterwards lost her the whole of the Netherlands.

Francis Vittoria, although more of a prelate than a jurist, is justly regarded as one of the ablest writers and highest authorities upon the subject of how far the spirit of Christianity should mitigate the rigors and calamities of war. He affirms, as a rule to be observed among Christian nations, that the property of private citizens in a Government subdued should not be taken possession of by the conqueror, and that therein wars in Christian countries should differ from the wars among old States before the introduction of Christianity and war among barbarians.

This rule of clemency is laid down as just between foreign States at war, without particularly considering the rule as applicable to civil wars. It is true that civil wars awake more angry passions, and are, as a general thing,

pursued more ruthlessly than wars with foreign nations. Is it not merely the result of passion, evil passions, if you please, aroused by the more immediate presence of its cause? On this subject Vattel again gives us the benefit of his opinion, and he has put it in such a form of language and such shape of argument that the justice of his opinion cannot be challenged:

"A civil war breaks the bands of society and government, or, at least, suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate bodies, two distinct societies. Though one of the parties may have been to blame in breaking the unity of the State and resisting the lawful authority, they are not the less divided in fact. Besides, who shall judge them? who shall pronounce on which side the right or the wrong lies? On earth they have no common superior. They stand, therefore, in precisely the same predicament as two nations who engage in a contest, and, being unable to come to an agreement, have recourse to arms.

"This being the case, it is very evident that the common laws of war—those maxims of humanity, moderation, and honor which we have already detailed in the course of this work—ought to be observed by both parties in every civil war. For the same reasons which render the observance of those maxims a matter of obligation between State and State, it becomes equally and even more necessary in the unhappy circumstance of two incensed parties lacerating their common country. Should the sovereign conceive he has a right to hang up his prisoners as rebels, the opposite party will make reprisals; if he does not religiously observe the capitulations, and all other conventions made with his enemies, they will no longer rely on his word; should he burn and ravage, they will follow his example; the war will become cruel, horrible, and every day more destructive to the nation. The Duke de Montpensier's infamous and barbarous excesses against the reformed party in France are too well known; the men were delivered up to the executioner, and the women to the brutality of the soldiers. What was the consequence? The Protestants became exasperated; they took vengeance of such inhuman practices, and the war, before sufficiently cruel as a civil and religious war, became more bloody and destructive. Who could without horror read of the savage cruelties committed by the Baron des Adrets? By turns a Catholic and a Protestant, he distinguished himself by his barbarity on both sides. At length it became necessary to relinquish those pretensions to judicial authority over men who proved themselves capable of supporting their cause by force of arms, and to treat them not as criminals but as enemies. Even the troops have often refused to serve in a war wherein the prince exposed them to cruel reprisals. Officers who had the highest sense of honor, though ready to shed their blood on the field of battle for his service, have not thought it any part of their duty to run the hazard of an ignominious death. Whenever, therefore, a numerous body of men think they have a right to resist the sovereign, and feel themselves in a condition to appeal to the sword, the war ought to be carried on by the contending parties in the same manner as by two different nations, and they ought to leave open the same means for preventing its being carried to outrageous extremities, and for the restoration of peace.

"When the sovereign has subdued the opposite party, and reduced them to submit and sue for peace, he may except from the amnesty the authors of the disturbance—the heads of the party; he may bring them to a legal trial, and punish them if they be found guilty. He may act in this manner particularly on occasion of those disturbances in which the interests of the people are not so much the object in view as the private aims of some powerful individuals, and which rather deserve the appellation of *revolt* than of *civil war*. Such was the case of the unfortunate Duke of Montmorency; he took up arms against the King, in support of the Duke of Orleans, and, being defeated and taken prisoner at the battle of Castille Naudari, he lost his life on a scaffold, by the sentence of the Parliament of Toulouse. If he was generally pitied by all men of worth and sentiment, it was because they viewed him rather as an opponent to the exorbitant power of an imperious minister than as a rebel against his sovereign, and that his heroic virtues seemed to warrant the purity of his intentions."

The point to which I particularly desired to call the attention of the Senate in this extract is contained in these words:

"For the same reasons which render the observance of those maxims a matter of obligation between State and State, it becomes equally and even more necessary in the unhappy circumstance of two incensed parties lacerating their common country."

Mr. President, the views thus expressed by these writers, and thus illustrated by past history, appear to have been the views entertained and acted upon by this Government thus far. That policy of clemency, as thus taught, was indicated in the inaugural address of the President. Afterwards, at the opening of the extra session of Congress last summer, he used this language:

"Lost there be some uneasiness in the minds of candid men as to what is to be the course of the Government towards southern States after the rebellion shall have been suppressed, the Executive deems it proper to say it will be his purpose then, as ever, to be guided by the Constitution and the laws; and that he will probably have no different understanding of the powers and duties of the Federal Government relatively to the rights of the States and the people under the Constitution than that expressed in the inaugural address."

At the opening of the present Congress, the President, in his message, makes use of this language:



"In considering the policy to be adopted for suppressing the insurrection, I have been anxious and careful that the inevitable conflict for this purpose should not degenerate into a violent, remorseless, revolutionary struggle. I have therefore thought proper to keep the integrity of the Union prominent as the primary object of the contest on our part."

Expressing the same line of policy, Mr. Seward, in August last, writes to Mr. Adams at the Court of Great Britain:

"You will indulge in no expressions of harshness or disrespect, or even impatience, concerning the seceded States, their agents, or their people; but you will, on the contrary, all the while remember that those States are now, as they always heretofore have been, and, notwithstanding their temporary self-delusion, they must always continue to be, equal and honored members of this Federal Union, and that their citizens, throughout all political misunderstandings and alienations, still are and always must be our kindred and countrymen."

Again, Congress in July last, in the Crittenden resolution, resolved:

"That this war is not waged on their part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as those objects are accomplished, the war ought to cease."

Sir, I ask whether the policy thus announced by the head of this Government, and thus announced by his chief Secretary to our representative abroad, and thus affirmed by both branches of the national Legislature, is or is not the policy of the country; and whether it is the policy indicated by the measure now before the Senate? I ask is not this the policy to which this Government stands pledged, and whether or not this measure is not a distinct violation of our pledged faith?

But, Mr. President, I have been reading mostly the opinions of individuals with regard to what should be the conduct of nations in time of war, and the rules of clemency that great, wise, and good men have endeavored to establish through many ages as the real law of war, and which they have not been able permanently to establish, for the sole reason that he who conquers has the conquered within his power, and will always be more or less revengeful; and to him power makes law. In almost all great wars even the established laws of nations are overturned and disregarded. If this has been so in other States and other nations, it will be no justification for us.

Now, sir, I undertake to say that this bill is a violation of the established law of nations. I take it there has not been in history such a thing as a general law of confiscation of estates, unless the power exerted by some monarch at the head of conquering armies, dividing conquered territories among his leaders, may be taken as a *law* of confiscation. I believe the last instance in history is that of William the Conqueror. He parceled out the lands of the conquered among his leaders. But this bill goes far beyond the extent of the power exerted by William the Conqueror. He only seized the lordships, the lands belonging to the great owners of the Saxon aristocracy, leaving to the franklin and lower landholders their possessions, only they were bound to recognize the dominion of the count or suzerain, who had immediate jurisdiction over them, and render certain services, mostly military. Even the Norman conqueror attempted no such confiscation as is attempted by this act, an act to sweep the whole of a populous country of all property, real and personal, and to be enforced, not by the forms of law in courts of justice, not by the President himself, whom we have clothed with authority, but by the ten thousand agents he may choose to appoint to go and inquire over the land who has uttered disloyal sentiments, who has been seen with arms in his hands, at this time or that time, and who said thus in April and thus again in August. The agent of the law is to distinguish himself by his being an efficient agent. He is informed that A, B, or C is disloyal. How informed? As to this



the law is silent. Then, at his pleasure, with the strong arm of the Executive, and with the aid of the military power of the Government, he seizes upon the property of every person he may choose to name as disloyal, sells it, and places the proceeds in the Federal Treasury. Surely this is a most strange and extraordinary law. He may take the poor man's cow as well as the lordly man's estate. He may take the poor man's oxen from the field as well as the rich man's fine bred horses in the stable.

As I understand it, the law of conquest, properly understood, gives to the conqueror the possession of that which was in the conquered Government, whether of lands that belong to the Government or Crown, or moneys in the public or his private treasury. A much argued case came up from India to the English courts, where one of the Indian princes who had been subdued and surrendered set up a claim to a portion of the moneys seized as his private moneys; and the court sitting at Bombay said, because they were his private moneys they were not subject to seizure; but the English court held, and held well, that he being the prince, the Government making war, and having command of all the resources that belonged to it for the purpose of prosecuting the war, he had no private property, and therefore overruled the decision of the court in the East Indies. Vattel states the general rule with regard to that to which properly the conqueror succeeds:

"The conqueror who takes a town or province from his enemy, cannot justly acquire over it any other rights than such as belonged to the sovereign against whom he has taken up arms. War authorizes him to possess himself of what belongs to his enemy; if he deprives him of the sovereignty of that town or province, he acquires it, such as it is, with all its limitations and modifications. Accordingly, care is usually taken to stipulate, both in particular capitulations, and in treaties of peace, that the towns and countries ceded shall retain all their liberties, privileges, and immunities."—*Vattel*, p. 387.

Again:

"In the conquests of ancient times even individuals lost their lands. Nor is it matter of surprise that, in the first ages of Rome, such a custom should have prevailed. The wars of that era were carried on between popular republics and communities. The State possessed very little, and the quarrel was in reality the common cause of all the citizens. But at present war is less dreadful in its consequences to the subject; matters are conducted with more humanity; one sovereign makes war against another sovereign, and not against the unarmed citizens. The conqueror seizes on the possessions of the State, the public property, while private individuals are permitted to retain theirs. They suffer but indirectly by the war, and the conquest only subjects them to a new master.

"But if the entire State be conquered, in what manner can the victor treat it, without transgressing the bounds of justice? What are his rights over the conquered country? Some have dared to advance this monstrous principle: that the conqueror is absolute master of his conquest; that he may dispose of it as his property; that he may treat it as he pleases according to the common expression of 'treating a State as a conquered country; and hence they derive one of the sources of despotic government. But disregarding such writers—who reduce men to the state of transferable goods, or beasts of burden—who deliver them up as the property or patrimony of another man—let us argue on principles countenanced by reason and conformable to humanity."—*Vattel*, p. 388.

The same writer, in speaking of the old law, where a city or fortress resisted, and afterwards was taken and subjected to pillage, lays down the rule that now obtains among civilized States, both in making war against fortified cities and where, occupying an open country, contributions have succeeded to seizure, so that when a city surrenders to an armed enemy, a contribution may be assessed justly upon all the citizens, or may be provided by the Government representing all the citizens, and not produce the waste and destruction following from a pillage, where much is destroyed, and where vast injustice must always be done.

The doctrine is distinctly laid down by Kent to the same effect. He says:

"The general usage of war is not to touch private property upon land."

And let me here remark that much of the argument of the chairman of the Judiciary Committee is based upon confounding the law of war upon the land within the territorial jurisdiction of a State and the maritime law

of nations, a uniform law recognized as the same law in Denmark, in England, in Spain, and in this Republic:

"The general usage of war is not to touch private property upon land without making compensation, unless in special cases dictated by the necessary operations of war, or where captured in places carried by storm and which have repelled all overtures of capitulation."—1 Kent, p. 92.

Now, Mr. President, what has been our practice? What was said to be the law of war when our armies marched into the territories of our neighboring republic? How was it administered by the column moving through Monterey to Buena Vista? How was it administered by General Scott in moving to the city of Mexico? Instead of pillaging or seizing anything upon the line of march, for such conduct the heaviest penalties were inflicted. No question was made whether the inhabitant of the enemy's country the day before or the day after might have been or might be in arms. He was paid out of the Government Treasury for whatever was taken; and when we had conquered a portion of Mexican territory, and it came to us by a treaty of peace, what was more carefully guarded than the estates of those men who held under the Spanish and Mexican Governments in the ceded territory? Among the largest landholders at that time in California was General Andres Pico, whose charge upon our forces on San Pasqual came very near changing the fortunes of war in that department. Was his claim of right disregarded for that, or the claims of any other person, or of the great body of the people of that country who had been in arms against us? In my judgment, the people of this country have the right to as favorable a construction of the law, and as favorable a practice of the rules of war as any foreign enemy—Mexican, English, French, or Spanish.

Then, Mr. President, I contend that although it is said the power exists in the conqueror to seize and confiscate, it is not said by any good authority that the right accompanies the power. There is a vast difference between the power of a conqueror over a subject enemy, what he may do, and what he may rightfully do. The rule of right is the rule of law, and the rule of right is against seizing the property of private persons, whether they be a foreign foe or a portion of our own people in rebellion against us.

But, sir, there is another rule of law with regard to this thing of confiscation. The bill is to be operative immediately, and to act upon every estate, the property of every individual, upon the happening of an act on his part. It is a confiscation of the property of all the parties now in arms. However, that I may understand the chairman of the Judiciary Committee, I will inquire of him, is the first section designed to operate upon persons who shall, after this bill becomes a law, be in arms, or is the term "during" to be understood as relating to those who are or may be in arms?

Mr. TRUMBULL. I am little surprised that the Senator from California, a good lawyer, as I know him to be, should ask such a question as that. The language of the bill is "who shall." Of course it is prospective.

Mr. McDUGALL. I presume so; but finding other features in the bill quite as obnoxious to the constitutional objection, I thought I would ask the Senator that I might understand him perfectly. Now, there is a rule with regard to confiscation, and it applies to almost every thing of this kind: you have got to acquire a thing before you confiscate it. It is true, that if you have seized and taken property as prize of war upon the high seas, and have had possession of it twenty-four hours, or have brought it



into port, or in the case of property seized on land, have brought it within the lines of your fortifications, and got perfect dominion over it, had it in your possession for a certain time, so that the enemy may not capture it, it may, in a certain case, become the right of the captor; but, it is laid down most distinctly and clearly that there cannot be any such appropriation of anything which you have not taken manual capture of. You have got to take it by act of war, by the strong hand, and not by legislative enactment. You cannot acquire the right in it by paper formula. The right of capture, in all instances, results from the fact that it has been taken by the strong arm, and is within the present dominion of the captor.

Mr. HARRIS. The Senator from California will allow me to suggest a case to him. There are men now engaged in this rebellion, and prominently engaged in it, who own valuable property in the State of New York. Cannot we confiscate that?

Mr. McDUGALL. That does not reach the point of the argument to which I am now addressing myself. That property you may yet get possession of; but that does not meet the objection to this bill. The bill in its general provision is for the confiscation of property everywhere upon the happening of an act, independent of whether it is in the possession of any conquering party or not. That view of the subject I shall discuss hereafter. The doctrine is laid down distinctly in all the books, as to how the conquering party may acquire a right, how it is limited as to the time of possession, and how as to the perfect dominion of the captor over the thing; but nothing is said with regard to lands, because it has never been admitted on the part of any writer on public law that the lands of private individuals could be made the property of the conqueror. It has been done by violence in some old periods of history, by semi-barbarous chiefs and Roman Emperors, seeking either to fill their own treasury, or appropriate it out among their military chiefs.

I will now proceed to the discussion of this measure in its relation to the Federal Constitution; and if I have not greatly misunderstood the provisions of that instrument, legislation, such as is proposed, is expressly prohibited. I understand this act to be a general bill of attainder—not such a one as finds precedent in English history, where bills of attainder were limited to a few named persons; but striking at whole communities, embracing millions of people. It is said by writers that in cases of rebellion or other war, individual examples may be made of the leaders of the insurgents or the enemy; but that it would be the worst of tyranny to include in the example whole classes or communities of men. This is in every one of its aspects an act of attainder, without a parallel, and not striking at the leading conspirators—the true objects of a just vengeance—but striking at millions of men, operating on them by one fell stroke, to deprive them of whatever they may have in this world either for themselves, their wives, their parents, or their children.

The Constitution provides that no bill of attainder or *ex post facto* law shall be passed; and I call the attention of the Senate—I suppose it is well understood, however—to the distinction between the two provisions of the Constitution. One provides that no bill of attainder shall be passed; the other that no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted. The first provision relates to legislation, and inhibits the passage by legislative bodies of acts of attainder. The other simply limits the exercise of judicial power. By



the English law, the blood of the convicts was attainted; it was incapable of inheriting; and there was a confiscation of all his estate. We undertook to be more humane than the English Government. We were establishing our institutions in the light of ages after English law was first established. Now, the question I put to the Senate is, is this or is it not a bill of attainder? Woodson's Lectures on English Law has been quoted as high authority by the eminent jurists of our own country and of England, and is, in many respects, an abler work than the great work of Blackstone. He defines a bill of attainder thus:

"All the modes of criminal prosecution hitherto spoken of, whether by impeachment or otherwise, are vindications of the laws in being, on which they are wholly founded. But besides the regular enforcement of established laws, the annals of most countries record signal exertions of penal justice, adapted to the exigencies unprovided for in the criminal code. Such acts of the supreme power are with us called bills of attainder, which are capital sentences, and bills of pains and penalties, which inflict a milder degree of punishment. In these instances the legislature assumes judicial magistracy, weighing the enormity of the charge and the proof adduced in support of it, and then deciding the political necessity and moral fitness, of the penal judgment."

Observe, he lays down a bill of attainder, as understood in the English law, as including capital sentences and bills of pains and penalties. While I have this writer in my hand, I will read something more from him on this same subject; for he not only states what bills of attainder are, but he goes into some discussion as to the justice of them, and suggests some reasons for the prohibition contained in our Constitution:

"It must be admitted that in all penal statutes passed *ex post facto*, except where the innovation molifies the rigor of the criminal code, justice wears her sternest aspect. Moral conscience and human frailty have no longer the additional guidance of the law. Bills of attainder for treason, notwithstanding their plausible pretenses, have offended the general humanity of this nation, and have been remarked to roll, like Sisypheus's stone, on the promoters."

"All civil magistracies have in season their appointed province. The legislative ought not to entrench on the judicial. Legislation, as it is the noblest exertion of human sovereignty, is the hardest task of human wisdom; and should not be perplexed by such temporary considerations or conjunctures as might hazard impartiality of decision. Hence the political congruity of first enacting laws, and then enforcing them on subsequent occasions, and by different magistrates, has been confirmed by the very constant usage of the world; in the observance of which the subjects of every State have been thought deeply interested. Thus, when a general law is made restraining crime, the due application of it is a new field to exercise the faculties of our minds. To do the whole at once, is relying too much on our judgments, especially when the various passions are heated or alarmed by an interesting crisis. Such is not the time practically to overturn legal institutions, which have either been sanctioned by long tradition and experience, or were dictated by temperate reflection; and having universality for their object, were uninfluenced by present fears, and personal enmity or favor."

"Lastly, it is said, that when it is the act of the supreme power, whoever deserves to die, dies justly. This in terms excludes inferior judicatures. Their proper province is here allowed to be to declare their stable law, not to estimate moral guilt or weigh political danger. Have legislatures a conscientious right (for I question not their undefined constitutional power) to proceed by any other rule? There is a moral and a civil justice. Offenders may deserve the *ultimum supplicium* on a moral and philosophical view of their guilt; but how their demerit should authorize the political infliction of it, otherwise than according to pre-established institutions, it is difficult to determine and evince. Offenses against the law of nature are obnoxious to divine punishment, because the will of the Creator, which constitutes that law, hath been sufficiently promulgated.—That the earthly rulers of society, who are ordained such for this very end of prescribing the line of civil conduct, should be extreme to mark what was done amiss beyond that which is written, should punish the transgression of laws which they have neglected to give, seems too great a power for man to exercise over man."

I understand the quality of a bill of attainder, as thus laid down by him, to be the act of a legislature which executes itself, and more, which is executed without any appeal to the established and recognized judicial tribunals of the country, either inflicting a capital sentence or imposing upon the individual pains or penalties. That this view of the law of what was a bill of attainder is correctly stated, I refer to the opinion of Chief Justice Marshall in the case of *Fletcher vs. Pecks*, 6 Cranch, page 138:

"No State shall pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts."

"A bill of attainder may affect the life of an individual, or may confiscate his property, or may do both."

"In this form the power of the legislature over the lives and fortunes of individuals is expressly restrained. What motive, then, for implying in words which import a general prohibition to impair the obligation of contracts, an exception in favor of the right to impair the obligation of those contracts into which the State may enter."

The same interpretation of the meaning of a bill of attainder is recognized by Mr. Justice Story, in his Commentaries on the Constitution, and I will read somewhat from him, for he may be called a recognized authority, and probably is regarded as good authority by all Senators on this floor :

"Bills of attainder, as they are technically called, are such special acts of the legislature as inflict capital punishment upon persons supposed to be guilty of high offences, such as treason and felony, without any conviction in the ordinary course of judicial proceedings. If an act inflicts a milder degree of punishment than death, it is called a bill of pains and penalties. But in the sense of the Constitution, it seems that bills of attainder include bills of pains and penalties; for the Supreme Court have said 'a bill of attainder may affect the life of an individual, or may confiscate his property, or both.' In such cases the legislature assumes judicial magistracy, pronouncing upon the guilt of the party, without any of the common forms and guards of trial, and satisfying itself with proofs, when such proofs are within its reach, whether they are conformable to the rules of evidence or not. In short, in all such cases the legislature exercises the highest power of sovereignty, and what may be properly deemed an irresponsible despotic discretion, being governed solely by what it deems political necessity or expediency, and too often under the influence of unreasonable fears or unfounded suspicions. Such acts have often been resorted to in foreign Governments as a common engine of state; and even in England they have been pushed to the most extravagant extent in bad times, reaching as well to the absent and the dead as to the living. Sir Edward Coke has mentioned it to be among the transcendent powers of Parliament, that an act may be passed to attain a man after he is dead. And the reigning monarch who was slain at Bosworth is said to have been attainted by an act of Parliament a few months after his death, notwithstanding the absurdity of deeming him at once in possession of the throne and a traitor. The punishment has often been inflicted without calling upon the party accused to answer, or without even the formality of proof; and sometimes because the law, in its ordinary course of proceedings, would acquit the offender."—*Story's Commentaries on the Constitution*, sec. 1344.

Here let me say that in attainders by the English law they have been infinitely more liberal than is provided by the terms of this bill. There, after the legislative investigation, judgment, sentence pronounced, if you please, the party had his day in court, and might assign objections to the attainder. Here you pass a law operating, and to operate instantly on its passage, upon millions of people, and the agents of the Government instantly proceed upon their mission, marching with our Army, not to bring captured property before the courts, but to seize and sell it, wherever found, at their discretion. And the party suffering this legislative condemnation, this magisterial act, has no redress, no remedy—not one provided for in the courts of the country. If the law be good for anything, the act of the Government clothing its agent with this power is final on the rights of the property seized, divests the property because the inquest is supposed to be had. The individual seizing pronounces judgment, if you please; he sells in open market or at private sale; his seizure divests the estate; his grant invests the estate. Either your law is valueless, it has no substance at all, or this is its effect; or otherwise, if any plea can be set up against this act, you have provided for involving the estates of at least one third of the confederacy in a series of litigation affecting all property, the rights of all citizens, and leaving them in a condition worse than if they were in a state of actual war; for general war in the courts of justice is more to be deprecated than war upon the battle field. I continue the extract I was reading from Story's Commentaries :

"The injustice and iniquity of such acts in general, constitute an irresistible argument against the existence of the power. In a free Government it would be intolerable; and in the hands of a reigning faction, it might be and probably would be abused to the ruin and death of the most virtuous citizens. Bills of this sort have been most usually passed in England in times of rebellion, or of gross subservency to the Crown, or of violent political excitements; periods in which all nations are most liable (as well the free as the enslaved) to forget their duties, and to trample upon the rights and liberties of others."—*Ibid.*

Mr. President, may we not well ask ourselves if we are not, to some extent, in the condition here depicted by the commentator? I say that this bill has all the characteristics of an act of attainder as stated by the Su-



preme Court, as discussed by Woodeson, as laid down by Story, without the intervention of the courts of justice, which by the established rules of law in civilized countries have the administration of estates, the determination of the rights of property. We provide for the transfer of estates by legislative act. It is true there is a condition precedent to the title passing, but we say it shall pass upon the happening of this act, and the party loses his right when it does transpire. Suppose we pass this act to-day, what is the consequence? The gentleman says it is not intended to be retroactive. Then to-day throughout all the South every man in arms, from the highest to the lowest, by this act loses his estate. To-day every man throughout the South who has, whether for the purpose of self-protection, or in the course of casual conversation, or as a matter of necessary policy, done anything, or said anything, or written anything which may be construed into lending aid and comfort to the enemy, is divested of all his property, real and personal. All that is to be done is to send the agents, civil or military, of the United States to seize it. Have Senators considered what the appointment of a body of agents of this kind will bring upon the country; that we are to carry on a war of detectives, informers, and witnesses against the South, instead of a war of arms; that we are to bring down upon them an army of harpies, with their vulture appetite and their vulture claws to rend the possessions of the South, that they may themselves carry off some of the fragments to their own homes near to the gates of hell?

There is nothing that I can conceive of that would be so disastrous to this country as to organize an army of informers, detectives, and subsidized witnesses to scour the South, and the North, if you please, too. In the State of Connecticut, for example, somebody has manufactured a gun that has been sold and found its way somehow to Charleston, South Carolina. There are anxious spies about, plenty of men who would prefer a case of this kind to obtaining a patent right. I speak not of Connecticut particularly; I speak of the North generally. While this kind of espionage and this kind of investigation and this banding together of agents, detectives, and witnesses would take place, what would be the result? Parties are so hostile that you cannot go to a neighborhood where you will not find a man of one party who will tell you that his neighbor of the other party is a secessionist. Go to that neighbor, and he will tell you that the other is worse than a secessionist, an abolitionist. How glad would they be to be informed that a law was passed whereby neighbor could be set on watch against neighbor, by cunning and stratagem to ascertain if he had not done or said something by which his handsome estate, his pleasant cottage, his comfortable home might be seized from him, and he and his family driven out. While this would be true throughout many parts of the North, how would it be in the South, where it is assumed, popularly, that every man is a traitor, and where a man dare not whisper loyalty: where, if he says anything, he must say something that sounds like treason. There is a vast field for enterprise; there fortunes can be made in a day, for by this law, all power is given to these agents; they seize, sell, and report, and it is not even provided that the report shall be under oath.

They seize and sell; and sell to whom? The sales will be Government sales. When a war ends—like that in Utah for instance—the auctioneer, the vendor, and the purchaser are generally persons in the same interest, and what is worth \$1,000 is sold for ten dollars. And who are to be these agents clothed with this mighty power? Are they to be agents over



whom we have any control—nominated by the President to the Senate? No; the President's appointees, and each particular appointee, of course, will exercise the authority of seizure and sale, with his detectives and his harpies about him. I can understand how a nation can bear a great war, where war is carried on by armed men on the battle-field—how it can stand the sacrifice of blood and treasure. There is suffering at the time; but years pass by, and the prosperity of the nation returns. There may be compensation in the dignity and elevation that even war can infuse into a people. But a war of detectives, informers, agents, and suborned witnesses for the purpose of seizing estates, will breed a disease from which this nation can never recover—a leprous disease, which will hang around us in all the ages to come; lepers we shall be, and a leprous people.

Mr. President, the chairman of the Committee on the Judiciary, in indicating the constitutionality of his bill—for he thought it certainly so questionable that it required vindication—chose to refer to a number of authorities; and that we may get at the issue as to the question of law, I propose to give to them a cursory examination. The first case he cited was that of *Cooper vs. Telfair*, (4 Dallas, 14.) The question there arose, under an act of the legislature of the State of Georgia, passed May 4, 1782—an act passed five years before the adoption of the Constitution, and during the Revolution. The question that arose before the court was simply whether banishment and confiscation were inhibited by any provision in the constitution of Georgia. The question of its relation to the Constitution of the United States was not mooted, for there was no Constitution of the United States. Mr. Justice Washington, in delivering the opinion of the court, said:

"Where an offence is not committed within some county of the State, the constitution makes no provision for a trial, neither as to the place nor as to the manner. Is such an offence (perhaps the most dangerous treason) to be considered as beyond the reach of the Government, even to forfeit the property of the offender within its territorial boundary." \* \* \*

"The constitution of Georgia does not expressly interdict the passing of an act of attainder and confiscation by the authority of the Legislature."

There had been no inhibition in the State constitution; and under the Articles of Confederation the powers of the States were altogether different from what they became after we established the present Constitution. That is the first case that the gentleman relies upon from which he gets the right to confiscate. He next cites the case of *Smith vs. The State of Maryland*, (6 Cranch, 286,) which is obnoxious to the same objection. The confiscation in that case was under an act of the Legislature of Maryland, passed in 1707—a law of the province of Maryland; and the only question involved was, whether our treaty of peace with Great Britain applied to the case or not. The syllabus is:

"A writ of error lies to the highest court of a State in a case where the question is, whether a confiscation under the law of the State was complete before the treaty of peace with Great Britain."

"By the confiscating acts of Maryland, the equitable interests of British subjects were confiscated, without office found, or entry, or other act done, and although such equitable interests were not discovered until long after the peace."

That case arose under a law passed and operative in Maryland long before the establishment of the Constitution; and the question was simply whether the confiscation had been complete, perfected, so as to vest the title in the persons who had acquired it under the confiscation before the treaty with Great Britain; for if it was not complete before the treaty, the treaty would have come in and saved the estate of the person whose property was seized. It had nothing at all to do with this question—was altogether foreign to it.

The case of *Brown vs. The United States*, (8 Cranch, 110,) cited by the

Senator from Illinois, in his opening argument, is a case where the right of seizure was denied by the Supreme Court. There the property was the cargo of a vessel in one of our ports; and it was seized after hostilities had commenced between the United States and Great Britain. The cargo had been landed and tied up on shore—had been discharged from the ship; and the court say that, being on land, it was not the subject of seizure. That is the point of the case.

Mr. COLLAMER. The Senator will allow me to suggest that the point in that case was, that the property of a belligerent in the country, at the declaration of war, was not forfeited by the declaration of war, but that it required a special act to do it.

Mr. McDUGALL. True, the court decided that the declaration of war did not operate to give the right of confiscation; but the court made a special distinction, and the judgment can be rested on that very distinction, between the maritime law of nations and the internal law of nations. That distinction was one of the considerations governing the case; and the right to seize and confiscate was clearly denied. I have chosen to refer to the decision particularly, because the court make the distinction, which should be borne in mind in this discussion, between the maritime law of nations administered on the high seas common to all civilized States, and the law of nations within the limits of a Government and its territorial jurisdiction in connection with the constitution and laws of that particular country. The maritime law of nations as administered in the prize courts of the United States is the same law that is administered in England. The English judges in admiralty rely on our authorities quite as much as they do on their own, and I believe more on the authority of the courts of the United States than those of any other country, and we, on the other hand, rely more on their authority. Mr. Phillimore, the Queen's proctor in admiralty and judge of the cinque ports, and one of the most eminent men in this department of jurisprudence, says that the law administered in the courts of admiralty in Great Britain is the same as the law in the courts of admiralty in the United States, Denmark, Sweden, Spain, and all the civilized nations of the world; and it is not the law of nations as to war, for in treating of the laws of war Grotius, Puffendorf, and all the continental jurists treat of war between contending armies, whereas the maritime law of nations has grown out of certain ordinances in old times when an effort was first made to give to those who sailed on the high seas some other character than that of pirates—ordinances established sometimes between commercial nations, and then a series of practices, and a body of treaties; and really the treaties that have existed between commercial nations are a great part of the law of nations itself, and our conformity to the general maritime law of nations may be considered as of the dignity of a treaty, for it enters into and becomes a part of our own law. That vessels of enemies may be seized anywhere upon the high seas is a rule of maritime war. If we treat with regard to the property of neutrals with the great Powers of Europe, the effect of that treaty will be to establish a new rule of maritime law.

The Senator cited the case of the *Venus*, Rae, master, (8 Cranch, 253.) The *Venus* was captured by the *Dolphin*, brought into a port of Massachusetts, and claim made for part of the cargo; and the only matter determined by the court was a question of fraud in the register. It is true that many questions as to the right of seizure were discussed in the case; but in speaking of them, the court speak only of those seizures recognized by the



maritime laws of nations. The same is true of the case of the *Amy Warwick* recently decided in Massachusetts by Judge Sprague; a mere question of maritime seizure, and the point involved was the hostile character of the party claimant, whether he was really a friend of the Government, or whether, having his domicile abroad, he had not acquired the new character of an enemy; and whether, under these circumstances, he could maintain his right, which otherwise might have been conceded, admitting the seizure of the vessel to have been within the maritime law of war.

The last case cited by the Senator from Illinois is worth particular attention. It is the case of *Johnson vs. McIntosh*, a recent case, decided in 5 Curtis. From it he quotes these very pointed, and it might seem, very comprehensive words: "Conquest gives a title which the courts of the conqueror cannot deny." It is worth while to enquire under what circumstances this language was used by the judge delivering the opinion. A party claimed title to a piece of property in the Northwest—Indian territory; he claimed his title under a grant made by the chief and men of authority of the tribe having possession of these lands as against the Government of the United States, and the question is argued by the court in this wise: when, after the conquest of America, Spain and England and Holland and other States of Europe sought to acquire possession of the territories in this country, they thought that their bringing civilization and the Christian religion to the savages justified them in taking possession of their property; and therefore upon this ground England claimed the right by possession, and that the planting of the English flag gave the *jus dominium* wherever possession was taken, and so of the other States. I say they based the right upon the fact that in exchange for this violent seizure of the property of a people not at war with them, they brought civilization and the Christian religion; and what did those men of that day, more barbarous than ours, lay down the rule to be? That the fee, the ultimate estate, was in the Crown of England, but the usufruct was in the Indian tribes. That the Indian had the right to possess, and to forever possess, the lands and the fruits of the lands; and therefore, from the earliest day, the colonies from Holland and from England always negotiated with the Indian tribes, and purchased out what they called their possessory right, which was the full and entire benefit in the lands occupied and possessed by them. They said, "the Indians cannot convey; they may enjoy; but because they are barbarous and we are a sort of guardians of theirs, they may enjoy the lands, but they cannot convey the lands to anybody except the guardian Government; that even the Government has not the right to take these lands except by purchase." Will not this Indian law of seizure be a sufficient law to meet the views of the chairman of the Judiciary Committee? Suppose now we say we have got the dominion over all the property of the conquered country, can we not afford to say we take it because we bring back the Constitution and the laws, as well as if we brought Christianity and civilization? We will take the dominion, and we will treat you as well as your ancestry and ours treated the savages of the continent; we will leave you at least the possession and the usufruct in that which you have heretofore enjoyed and are now enjoying. I protest, in the name of modern civilization, against making for the people of the South a worse law, a severer and more penal law, than the one our ancestry administered against the savages of this coast, than the one which our people administered in the war against Mexico—a people among whom



were none of our race or kindred, none bound to us by any common traditions or former ties of friendship or affection.

Mr. President, no such policy will secure peace. You may make what are called in the citations I have made a body of "*desperate*" men; you may deprive thousands and hundreds of thousands of their estates; of their all; you may say, "we will place you beneath the yoke, you shall be subjugated to us." Were they a people who had lived under the most abject slavery, the question would be whether they would submit to this from new masters; but there can be no such submission from a people who have once been free, who have learned what freedom is from their mother's lips in infancy, and have enjoyed what freedom bestows through youth and into manhood. The degradation of imposing terms disgraceful and humiliating will not be stood by any portion of this people. It would not be stood by the people of the State of Maine, if single-handed they had to maintain their pine forests against the Union in arms. It would be stood by no community in this Republic. Then indeed there would be sacrifices; every true-hearted man would be willing, rather than submit to this, to make himself a sacrifice. No true man but would rather die with honor than live not only with himself but with his people disgraced.

I trust we all look for the return of peace. I trust we all look for a re-united Confederacy. But let us not expect to secure peace or union by passing laws which will only make men desperate, make fiercely hostile all now friendly to us in the country to which we propose to go, and where we propose to raise our flag. It will not only make them enemies, but make all our enemies desperate. We did not take Fort Donelson so much by the specific power of our arms; but the men in arms there had no heart in this controversy; they had been forced in the tide of revolution into their particular position. They doubted the justice of their cause; many knew the cause to be unjust. How will it be when you issue your mandate of general confiscation?

Mr. President, to throw what I have said about the South in a more pointed shape, I will read a letter taken at Fort Henry, which I have found in the papers of the day, as expressive of the condition of a great many people throughout the South, and many who are in arms:

NASHVILLE, TENNESSEE, January 7, 1862.

DEAR SON: I received your always welcome letter yesterday, and I am going to answer it speedily. I received your package containing \$300 in confederate State scrip, for which I am very grateful. I am glad that you are doing well and that you are well, but I tremble when I think of you being engaged in this horrid war. Henry, my son, I can but feel the South is in the wrong. We may console ourselves with whatever belief we choose, the United States is bound to subdue us. General McClellan has and is exercising great generalship. I fear that soon a movement will be made that will crush us out. Henry, I know you must think as I do. I wish you would resign, and we will move North. No one here suspects my Union proclivities. I am obliged for the sake of your mother and sisters, to talk and be a secessionist; but I say to you, what I said when you were at home, I do not believe the northern men desire the ruin of the South. A great interest is felt here as regards your position, (Fort Henry) if that is taken, the South is surely conquered. You can see this as well as others.

Destroy this letter, as it may get you into trouble. Your affectionate father.

I take this to be a representative letter, exhibiting the true condition of vast numbers of people throughout the South. They talk this way, and why? As this writer says, "for the sake of your mother and sisters," and these are strong motives. I before remarked that these men are not to be condemned for their position. The organization of the rebels was so perfect throughout the South, by a long-continued system of organization, that all the arms and all the organizations of the country, both official and physical, were in the hands of the conspirators, so that a few men controlled the multitude. I have seen, and I presume other Senators have seen,

a body of fifty men, armed and desperate men, for a time take possession of a whole populous county and hold it under absolute control; and so always a few violent men may get the possession of large majorities, and hold them until the majority have some means whereby they can secure organization, and resist force with force.

Enough of this, Mr. President; I propose now to say something in regard to another feature of this bill, and that is the clause in regard to negroes. I will now repeat here what I have had occasion to say in many parts of the country, and what has been my earnest conviction for many years. If from the Federal Congress could have been excluded the agitation of the negro question—one which has little, if any, legitimate business here—if it had never been permitted to enter, or if, when offering itself, it had been excluded, except where there was legitimate constitutional field for legislation, there would have been no disturbance in the country, and we should have been a brotherhood as a nation to-day. When introduced, it has become the absorbing topic. Men have sought by their efforts here to excite popular sentiment on one side in the North, and popular sentiment on the other side in the South. The orations, declamations, and harangues that have been heard in this Hall and in the other end of the Capitol have not been designed for counsel among Senators and Representatives, or for legislation for the Government, but for the purpose of more fiercely arraying party against party. For whose advantage? For the promotion of what end? The building of themselves up at the sacrifice of the harmony of the Republic. It has pained me whenever, since my arrival here, I have heard these subjects discussed. I had thought, and I still think, that the business of this great war, the financial policy it involves, the strengthening of the hands of Government so that war may be made promptly efficient in result; that these topics furnish field enough for all our wisdom, for all our counsel, and for all our conduct. But how has it been? It is not my office to reprove any Senator. I may, perhaps, be too young in the Senate even to speak of these things; but what time has been permitted to any Senator to inquire into the novel question of how we shall sustain the finances of the Government; how we can secure the means necessary for the prosecution of this great war?

It has been my fortune to be on the Finance Committee, and to come in contact, more particularly than some other Senators, with the questions there presented. I have not found my associates professing to be wise, not even the oldest Senators, on the subject. I have not found the men at the head of the finance department of the Government professing to be wise on the subject. These are new questions, presented for the first time in our history. They demand careful study, careful investigation, because upon such measures being well and wisely matured, depends our success in this struggle more than on any question of armies, for we have yet unarmed a million of men ready for the field.

Is it not true that subjects like the one under consideration, alien to the war, have prevented anything like careful investigation or consideration of the paramount interests of the Government and the necessary business of legislation. Who, I ask, what one Senator has been able to investigate any policy of a foreign State that we may assimilate to the policy we have got to inaugurate? I think my friend from Ohio (Mr. SHERMAN) probably has paid more attention to that subject, with the exception of the chairman of the Committee on Finance, (Mr. FESSENDEN,) than any one else here; and yet I think he will say that he is only on the threshold of



the inquiry. We are compelled here promptly to devise a great policy to operate throughout the whole country and to reach every man's property. We cannot take the example of England and copy laws from her statute-book, and way? England is a very different country from ours, and a source of revenue of particular denomination there might bring in many millions of money, while here it would not pay the expense of its administration. We have not large incomes as they have in England. Our business is conducted differently; our property is held differently; our machinery of Government is altogether different. Some of the provisions made in regard to the finances at the extra session have remained a dead letter on the statute-book, because the Secretary of the Treasury has found it impracticable to make them operate; and why not operative? Because unwisely devised or imperfectly matured.

Had we not better bestow some attention on the pressing necessities now imposed upon the Government, and where the Government asks our aid, then to devote ourselves to the discussion of bills brought in from the Judiciary Committee or the Committee on the District of Columbia or the Committee on Military Affairs, stirring up this vexed question which has been the foundation of all our disturbances, and is, I say, the immediate cause of the present destructive war? I will say here that I do not believe this subject requires legislation; I do not believe we are wise enough to apply apt legislation to it. If it be among the accidents or consequences of this war that slavery shall be crushed out forever, let such result come; we are not here to discuss the mode of doing it. For myself, I do not know how to contemplate such a result as the making free of the entire slave population of the South, and thrusting them upon the Republic, without the gravest apprehension of evil. That man must be both a wise and a brave man who can look such a result calmly in the face and with truth say, "This have I done, or this have I promoted, and what I have done I have done both wisely and justly."

But, Mr. President, while differing with the chairman of the Judiciary Committee as to the bill, I agree with him in some expressions of opinion, and particularly his well-put concluding sentence:

"But, while fighting this battle in behalf of constitutional liberty, it behooves us especially to see to it that the Constitution receives no detriment at our hands. We will have gained but little in suppressing the insurrection, if it be at the expense of the Constitution; for the chains which the bondman wears are none the lighter because they were forged by his own and not another's hands. As we expect to come out of this contest with our flag full and complete in all its proportions, not a stripe erased or a star obscured, so let us preserve the Constitution perfect in all its parts, with all its guarantees for the protection of life and liberty unimpaired, and the instrument itself rendered doubly dear from the fact that it has been sacredly maintained and proven equal to every emergency, under circumstances the most trying to which a nation was ever subjected. Then, when this struggle is over, we will have an assurance that our Government is stronger than ever before, and that constitutional liberty is established on a foundation which no human power will ever be able to subvert."

These I know to be the sentiments of the Senator from Illinois. They are sentiments worthy of him; but I think he has made a vast mistake, a radical mistake, in making, from his premises in the Constitution, so wide a departure as is exhibited in his bill. Before referring particularly to the constitutional question, which I shall discuss very briefly, I will see what the Government, both as political and constitutional question, have been disposed to hold upon this matter.

(At this point the honorable Senator gave way for an executive session.)

TUESDAY, *March 4*, 1862.

Mr. McDougall. At the close of my remarks yesterday, I thought that I had covered all the ground and all the considerations I desired to



present on the question of the constitutionality of the right of confiscation; but upon recurring to my memoranda, I find that I had omitted to present some authorities, which I think important, to the consideration of the Senate. I think I shall be pardoned by the Senate for occupying so much time, for it must be felt by every one of us that this is a question that should be fully discussed in all its aspects. I will now call the attention of the Senate to some remarks of Justice Story, in his Commentaries, which I omitted to read yesterday. In that portion of his Commentaries where he treats of the subject of treason, and the power reserved to the Federal Government to punish treason, he lays down language which, in my judgment, covers the whole constitutional question involved, in definite terms, besides giving some reasons of the strongest character why forfeiture or confiscation should not take place under any circumstances. He remarks:

"It surely is enough for society to take the life of the offender, as a just punishment of his crime, without taking from his offspring and relatives that property, which may be the only means from saving them from poverty and ruin. It is bad policy too; for it cuts off all the attachments, which the unfortunate victims might otherwise feel for their own Government, and prepares them to engage in any other service, by which their supposed injuries may be redressed, or their hereditary hatred gratified. Upon these and similar grounds, it may be presumed, that the clause was first introduced into the original draft of the Constitution; and, after some amendments, it was adopted without any apparent resistance."

The clause indicated is, that there should only be forfeiture during the lifetime of the party convicted.

"By the laws since passed by Congress, it is declared, that no conviction or judgment for any capital or other offences, shall work corruption of blood, or any forfeiture of estate."

Observe the reasons given for this change of the rule of the Constitution, made almost immediately after its adoption, made in 1790, shortly after the revolutionary war, and when peace had returned and counsel was prevailing throughout the country:

"The history of other countries abundantly proves, that one of the strong incentives to prosecute offences as treason has been the chance of sharing in the plunder of the victims. Rapacity has been thus stimulated to exert itself, in the service of the most corrupt tyranny; and tyranny has been thus furnished with new opportunities of indulging its malignity and revenge; of gratifying its envy of the rich and good; and of increasing its means to reward favorites, and secure retainers for the worst deeds."

To avoid such motives, it is assumed by the commentator that the law of 1790 was passed, which took from the courts the power to render the judgment of confiscation or forfeiture. And now observe the statement in the opening of the next section:

"The power of punishing the crime of treason against the United States is exclusive in Congress; and the trial of the offence belongs exclusively to the tribunals appointed by them."

What tribunals? What tribunals but the courts of justice of the country. I will also read on this same subject, and connected with this question of bills of attainder, a note introduced by Justice Story, quoting the authority of Doctor Paley:

"Dr. Paley has strongly shown his disapprobation of laws of this sort. I quote from him a short but pregnant passage: 'This fundamental rule of civil jurisprudence is violated in the case of acts of attainder or confiscation, in bills of pains and penalties, and in all *ex post facto* laws whatever.'"

Here is the objection—

"in which Parliament exercises the double office of legislature and judge. \*And whoever either understands the value of the rule itself, or collects the history of those instances in which it has been invaded, will be induced, I believe, to acknowledge that it had been wiser and safer never to have departed from it. He will confess, at least, that nothing but the most manifest and immediate peril of the commonwealth will justify a repetition of these dangerous examples."

And again, in a note on the subsequent page, where the commentator introduces his own remarks:

"During the American Revolution"—

And cases during that period might be quoted as authority here, perchance—

“this power was used with a most unsparing hand; and it has been a matter of regret in succeeding times, however much it may have been applauded *flagrante bello*.”

There is no authority, except the authority of power in its immediate and present action where power overrides law, that justifies proceedings of this kind. It is not to be found in the rules laid down by any of the calm, wise thinkers of the past or of the present day.

Now, sir, I will recur to the subject upon which I was entering at the time of adjournment yesterday; and that is, as to whether the provisions of this bill with regard to persons held to service or labor are either constitutional or politic. I object to the constitutionality of the second section of the bill, for the reason that it imposes upon the person claiming and owning a fugitive from service the burden of establishing affirmatively, before such jurisdiction as may be assigned, that he is a loyal citizen. Now, to begin with, what does loyalty mean? It has been said upon this floor recently that every man has his own definition. Loyalty is not a term known to the law; and the question of loyalty will have to be determined by the caprice, proclivities, or inclination of whoever may be the judge in the case. The bill in this respect is not good legislation; for when we undertake to limit a man's right, we should use such terms as would give a definite, fixed limit in exact and understood form of words. Loyalty, I suppose, means attachment; and there are various degrees of it. It may be qualified in a thousand ways. There may be a certain degree of loyalty and disloyalty united in the same individual's opinion. I say it is not a term known to the law; it has no particular or definite signification; and, therefore, it will be left at the control of whoever may be assigned to determine whether the proof of loyalty establishes loyalty in fact or not.

Then I say that this is imposing a limitation upon the party who has an absolute right of reclamation under the Constitution. I suppose it is admitted that the Constitution of the United States now prevails all over the old Confederacy, over all the States. I understand the Senator from Illinois, the Chairman of the Judiciary Committee, to deprecate the idea of any violation of the Constitution. I understand the President of the United States and the Secretary of State to proclaim that the Constitution prevails everywhere, and that this war is to be waged simply to re-establish the Constitution and the laws of the Union everywhere. Now, I say, here is legislation which is a limitation upon the absolute right given to the owner by the terms of the Constitution. That it is such an absolute right is not now an open question. The nature and force of the constitutional provision can be clearly understood from its terms; and upon learned and full argument, it has been carefully determined by our courts. I believe the opinion of the Supreme Court of the United States in *Prigg vs. The Commonwealth of Pennsylvania*, has not been denied from the time that decision was pronounced until now by any court of the United States, either in the South or in the North. The article of the Constitution is in these words:

“No person held to service or labor in one State, under the laws thereof, escaping into another shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.”

It has been held that it was sufficient for the claimant to show that he was the party to whom labor or service was due. Such is the exact substance of the constitutional provision into which Congress, by law, cannot

interpolate any new term. There is no room for argument upon this subject. In a note to this article of the Constitution, in the first volume of the Statutes at Large, the decision in *Prigg vs. Pennsylvania* is stated as follows:

"*Prigg vs. The Commonwealth of Pennsylvania*, 16 Peters, 539. The clause in the Constitution relating to fugitives from labor manifestly contemplates the existence of a positive, unqualified right on the part of the owner of the slave, which no State law or regulation can in any way qualify, regulate, control, or restrain."

This case grew up under a law of Pennsylvania; but it applies equally to congressional legislation:

"Any law or relation which interrupts, limits, delays, or postpones the rights of the owner to the immediate command of his service or labor, operates, *pro tanto*, a discharge of the slave therefrom. The question can never be how much he is discharged from; but whether he is discharged from any service by the natural and necessary operation of the State laws or State regulations. The question is not one of quantity and degree, but of withholding or controlling the incidents of a positive right."

"A positive right." By the terms of the Constitution, which cannot be qualified or limited by the legislation of Congress any more than by legislation on the part of the State of Pennsylvania,

"The owner of a fugitive slave has the same right to him in a State to which he has escaped or fled that he had in the State from which he escaped; and it is well known that this right to seizure or re-capture is universally acknowledged in all the slaveholding States."

Whether this provision of the Federal Constitution be a wise or an unwise one is not for us to determine. As long as we pretend to act, as long as we sit here sworn to act obedient to the terms of the Constitution, we should render it a prompt and willing obedience, particularly at this time, when we claim, with arms in our hands, with large armies in the field, to undertake the establishment of the Constitution throughout the Union as against parties who claim, as against us, that we have been guilty of its violation.

But, Mr. President, there is a pledge on the part of this Government as it stands now, with its present chief, with its present organization, as far as the Government can pledge itself by overt act and word, that these rights secured by the Constitution shall be maintained in all their integrity. The President, in his inaugural address, with the storm of war threatening him, impressed with all the responsibilities of a great nation disturbed by intestine war—a war in which this very question was deeply involved—said:

"I have no purpose, directly or indirectly, to interfere with the institution of Slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so."

Here is a pledge of opinion as to his constitutional, lawful right to interfere either directly or indirectly. I believe this language meets this question. Not directly, but indirectly, this bill makes war upon the institution within the States where it exists. The President proceeds to remark:

"There is much controversy about the delivering up of fugitives from service or labor. The clause I now read is as plainly written in the Constitution as any other of its provisions. 'No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.' It is scarcely questionable that this provision was intended by those who made it for the reclaiming of what we call fugitive slaves; and the intention of the lawgiver is the law. All members of Congress swear their support to the whole Constitution, to this provision as much as any other. To the proposition, then, that slaves whose cases come within the terms of this clause shall be delivered up their oaths are unanimous."

It is true, the whole body of the Senate and House of Representatives have sworn to the faithful execution of this clause of the Constitution.—And further, Mr. President, on the 22d of April last, Mr. Seward discussed this subject in his correspondence with Mr. Dayton; and here is the avowal of our policy to our representatives abroad through the State Department,



and I suppose it may without injustice be considered the avowal of our policy here :

"The Territories will remain in all respects the same, whether the revolution shall succeed or shall fail. The condition of slavery in the several States will remain just the same whether it succeed or fail. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail ; for the rights of the States and the condition of every human being in them will remain subject to exactly the same laws and forms of administration whether the revolution shall succeed or fail. In the one case the States would be federally connected with the new confederacy ; in the other, they would, as now, be members of the United States ; but their constitutions and laws, customs, habits, and institutions in either case will remain the same.

"It is hardly necessary to add to this incontestable statement the further fact that the new President, as well as the citizens through whose suffrages he has come into the administration has always repudiated all designs whatever, and whenever imputed to him and them of disturbing the system of slavery as it is existing under the Constitution and laws. The case, however, would not be fully presented if I were to omit to say that any such effort on his part would be unconstitutional ; and all his actions in that direction would be prevented by the judicial authority, even though they were assented to by Congress and the people."

To these declarations, made by the head of the Government and the persons next to him in office in the executive department of the Government, I will add the expression of opinion by Congress on a resolution offered in the House of Representatives by the Senator from Ohio, now occupying the chair, [Mr. SHERMAN ;] a resolution passed as late as February 11, 1861, passed I believe, with perfect unanimity, persons of both parties concurring in the declaration made by the resolution :

"*Resolved*, That neither the Congress of the United States nor the people or governments of the non-slaveholding States have the constitutional right to legislate upon or interfere with slavery in any of the slaveholding States in the Union."

Now, if we have no right to interfere with slavery under the Constitution, have we any right above and beyond the Constitution ? We have heard much of the necessary law of war, and that this is a war measure. True, there are war necessities—necessities that arise in the midst of war between armed men arrayed against each other. These necessities, at the demand of the moment, must, more or less, control military conduct ; conditions of necessity controlling movements in the field justifies no plea for the violation of fundamental law by the body charged with the establishing of law. We have no such imminent occasion imposing such necessity. There is neither necessity\* or policy in this legislation, even if we had the power to declare and make necessities by legislation instead of by the accidents of arms. As I have had occasion to say before in this discourse, instead of a proceeding of this kind strengthening the arms of the Union, it would paralyze the arms of thousands of men now maintaining the cause of the Union in the field, and would make the men who oppose us, now doubtful of the justice of their cause, firm in conviction that it was their duty to resist to the death.

I understand Senators all admit their obligation to yield to the terms of the Constitution. Now, I do not want expositions on this subject. The Constitution executes itself. It has been repeatedly said by our courts, and well said, that it requires no legislation. It has been convenient to legislate to furnish a *quo modo* for the presentation of the claim of right ; but the Constitution gives the absolute right, a right not to be qualified as to any one moment of time ; for the right of seizure is absolute, the court say in *Prigg vs. Pennsylvania*, as absolute in Pennsylvania as in Louisiana, the right being a perfect one.

I have another objection, Mr. President, to this bill independent of its being, in my judgment, clearly obnoxious to constitutional objection. It strikes me that the scheme of colonization incorporated into this bill is a perfectly wild, a perfectly visionary one. It seems to me that it is an at-

tempt on the part of Congress, by law, to usurp the ways of Providence, to produce a result not within the grasp of this collective people, nor within the grasp of the power of this government. What does it contemplate? The bill itself, although it does not avow it, aims at general emancipation to follow our arms. Four millions of people are said to be of the class who should be colonized. It is known now that the necessities of this war have imposed on us burdens quite as much as we can well bear. These burdens will increase—burdens which we shall not be able to meet, but which we must leave as a legacy to our children. Suppose we undertake the enterprise of colonizing one million of these people, and undertake it as an immediate enterprise: what is to be the result? First, where are they to be sent? Into some tropical country. What tropical country? South America or some of the States of Central America.

In the first place, then, we have to acquire for them, because they cannot acquire for themselves, a large territory to begin with. How is that territory to be acquired? Except in few instances, where there are large claims held by grants from crowned heads, the property is divided and distributed up as it is in all other parts of what were formerly the dominions of Spain in America. We have to purchase titles, not merely from the Government itself, but from a multitude of individuals, and we shall have the Government here surrounded by a thousand men with great grants on paper, asking large sums to sell out to us the State of Nicaragua, or some other State in that part of the world. What will that cost us before we get through? But suppose we acquire the country to which we are to send these parties, the cost of transportation alone for one million of persons would not be less than \$75,000,000, particularly when the Government undertakes the enterprise. And after you have spent that sum, you have sent out but one fourth of the population that is to be colonized, and you have accomplished this at an expense of \$75,000,000—double the legitimate annual revenue of the Government to-day. You have expended that by borrowing money from your own people or from abroad. Another year comes round, and how many persons are there of the same class? Production alone, the natural increase, would make them four million five hundred thousand, and you have that number to operate upon. If you spend \$75,000,000 for this purpose one year, can you do it the next? But apart from that, you have not only to send these persons to a tropical country; but they go there an ignorant, an indolent people, without any means, without clothing, without subsistence, except at the hands of this Government. Laws must be organized. The lands must be distributed, houses and implements of agriculture must be provided; all this must be superintended by the Government. We have to administer government for them. We have to furnish them with everything their condition and necessities may require. We constituted ourselves their guardians. How long, think you, we will have to stand guard and guardians for them? Certainly either until they go out into absolute barbarism, or until we have destroyed all means of capacity on our part to lend them aid. You propose to send them to South America, if you please, to mingle with whom? Not merely an ignorant, but a debased race of people, half Indian and half negro, men who live in the wilderness, who have no pursuits of labor, who live upon the spontaneous fruits of the earth—a lazy, vile, miserable race of demi-savages. In such a country, I say you have either to abandon them to absolute barbarism, or you have to maintain them as a State by furnishing the money necessary for that purpose, and continuing



to furnish it until the operation shall go beyond all possible forbearance, and then the consequences will remain the same.

But apart from that, we have not the means to colonize these people; we have no policy of our Government that justifies it, and I question our constitutional power to do it. Where does the power come to us to establish a government not for ourselves or for our people, but for a people whom we declare alien to us, and maintain that government distant from the boundaries of the Republic—where is the constitutional right? If the Constitution of the United States be a grant of power, that power is not granted; and if there could be any departure from the spirit of the Constitution, this would be such a departure.

But consider the idea of colonizing four millions of people, enough to make a powerful State, and administering their affairs when colonized, for any period of years, for the least supposable period. The cost of this entire war, should it continue all this year and next year, would not be an approximation to the burden thus imposed on the country. The country could not bear it. It is a wild, impracticable scheme, such as is not within the power of this Government or of any other Government upon earth. It does well enough to put upon paper. It looks charitable, perhaps, to some. If you want to do the negro race great wrong, treat them worse than it is our custom to treat the savages on the frontier when we want possession of their lands, pass such a law; and if you can carry out such a policy, perhaps you may hope that, like all rude and barbarous people placed by themselves, without the restraint of masters or the restraint of true government—like the Indians in the country which we possess—vice, disease, and crime will, in a few years, break down the multitude to a small people that can be left to take care of themselves. This certainly cannot be done in the name of humanity. It is well understood, and well understood by every reasoning man, that there is no solution of this question consistent with the liberation of the whole slave population by any one act of war or of law. It is one of those evils that exist in the country, not within the remedy of any parchment signed by the President of the United States with our consent. A wise and considerate policy on the part of this Government and this people, the policy inaugurated by the fathers of the Republic, by Washington and Jefferson and others, favoring a gradual emancipation, might and would have had vast results in reducing the evil, as far as it is an evil, among us. But the war made upon their movements, and the war made upon the institution, aroused all the angry feeling of the South many years since; and those measures of amelioration, which would have passed long ago in the State of Kentucky, in the State of Virginia, in the State of Maryland, and in the State of Tennessee, confining the true slave line to the extreme South—those measures of amelioration have been prevented by agitation in the Senate and in the House of Representatives, and in the newspaper press throughout the country. All we can hope for on the return of peace, is wiser and calmer counsels in regard to these things, and that gradually, by such appliances as may work out their results in the course of many years, we shall be freed from slavery as a burden.

Do not understand me, Mr. President, as being in any sense in the remotest degree an advocate for slavery in any form. I have never, since I have had opinions, entertained the opinion that it could exist to the advantage of any free State. I regard its influences as being worse upon the white than upon the slave population. I understand, too, that when I



present my opposition to this measure, I come in contact with what is the popular opinion and feeling of the people throughout the free States. That cannot measure my conduct. I understand the business of a Senator here in the passage of laws to be to inquire into what laws are necessary and just, what laws presented are impolitic or unjust, and to give his support to the one, and his opposition to the other. No notion of popular opinion should or will control me.

I hold that one of the evils out of which the present condition of things in this country has grown is that the men who should be the leaders of opinion in the Republic, the men who in various high places to which they have been elevated by the consideration of the country, have the power and stand charged with the duty of leading opinion, instead of leading have to too great an extent allowed themselves to be mere followers of the uninformed and ignorant opinion existing among their respective constituencies. With regard to this condition of slavery and the necessities connected with it, is popular opinion informed? I say it is not. Therefore I will not be guided by mere popular opinion, but will rather give the reasons for the opinions I entertain, trusting that I may think justly and may be able to communicate sound opinions to others.

Mr. President, I say that the passage of this measure will make for us desperate adversaries, who will continue this war persistently until we have yielded ourselves to their position, or until they, as a people, shall be sacrificed. Legislation is an easy thing; the passage of laws, the making of written parchments with certain authentications, are easy things. It is said that "the path downward into hell is an easy path,"

"But to return and view the cheerful skies,  
Therein the toil and mighty labor lies."

When by this legislation we shall have aroused all that is fierce, all that is resistant in the South, and thus invited a more desperate war than we have yet witnessed; after we have done the wrong, after we have committed the deed, there will be no possibility of efficient retraction. Our claim of having pursued a just line of conduct in the maintenance of the Constitution will be ignored everywhere; our acts will be looked upon as violations of the law of nations, and violations of the laws of just war everywhere, and we cannot take these things back. It is easy, I say, to place ourselves in the position of having wronged these people in the eye of nations, in the eye of the civilized world, and in their eye. It will be a difficult thing for us to redeem ourselves from that position.

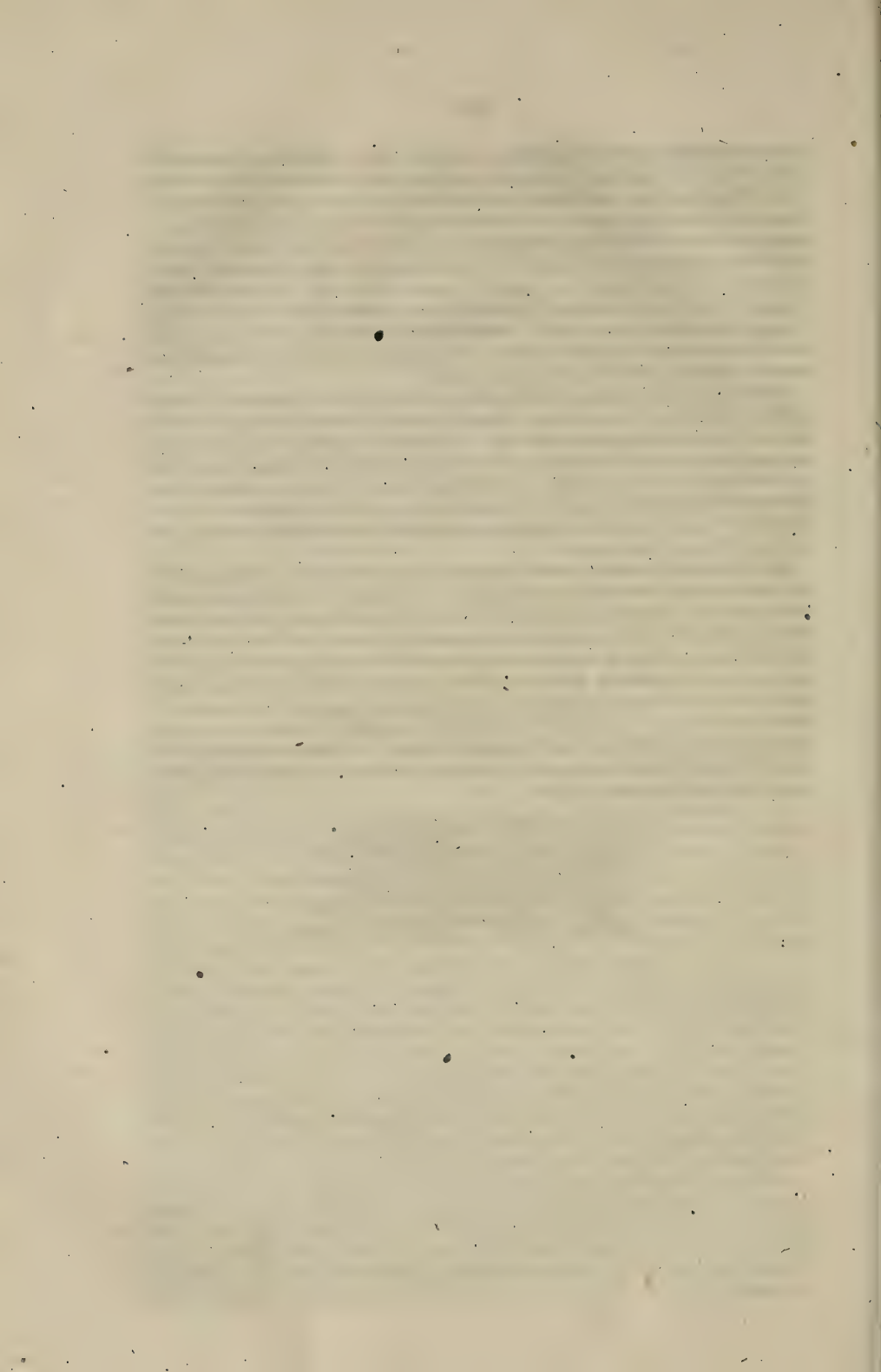
Mr. President, it may be thought by some that the language of the Chief Magistrate and of the Secretary of State and of the Senator from Ohio was all well and proper in those days when the forces of the Government had not been marshaled, when Washington itself was threatened by armed foes; but that now that we have brought our six hundred thousand men in the field, that we have got an artillery alone sufficient and efficient for the entire war, that we have exhibited our ascendancy on some well-fought fields, and now that we have demonstrated our entire power over the South, this may justify us at this time, in the day of our triumph and in the day of their humiliation, to impose upon them penalties, to apply to them tortures, to make them feel our giant strength. Sir, I have been taught that to the conqueror and the triumphant belong, as the highest virtue, magnanimity, as in days of peace the highest virtue is charity. We can now afford to be magnanimous. We have vindicated, in the eyes of the South as well as of the nations, our power to compel a

proper subjection to the Constitution and the laws; and now, having demonstrated this, and being in regular progress in the work, it is for us to show them, by clear and distinct and well-affirmed acts, that we come to them with the Constitution as it was—with their rights as they were—saying to them: "You misguided men, you men who have been led away from the standard of our fathers, we come to you saying, return; yield obedience to these laws; live again in peace with us." Is not this the manner in which we should approach the people of the South, erring, wrong, rebellious as they are? Christianity teaches us a rule about this; but the same rule is taught by all the wise thinkers and the good and true men of antiquity and of the modern time.

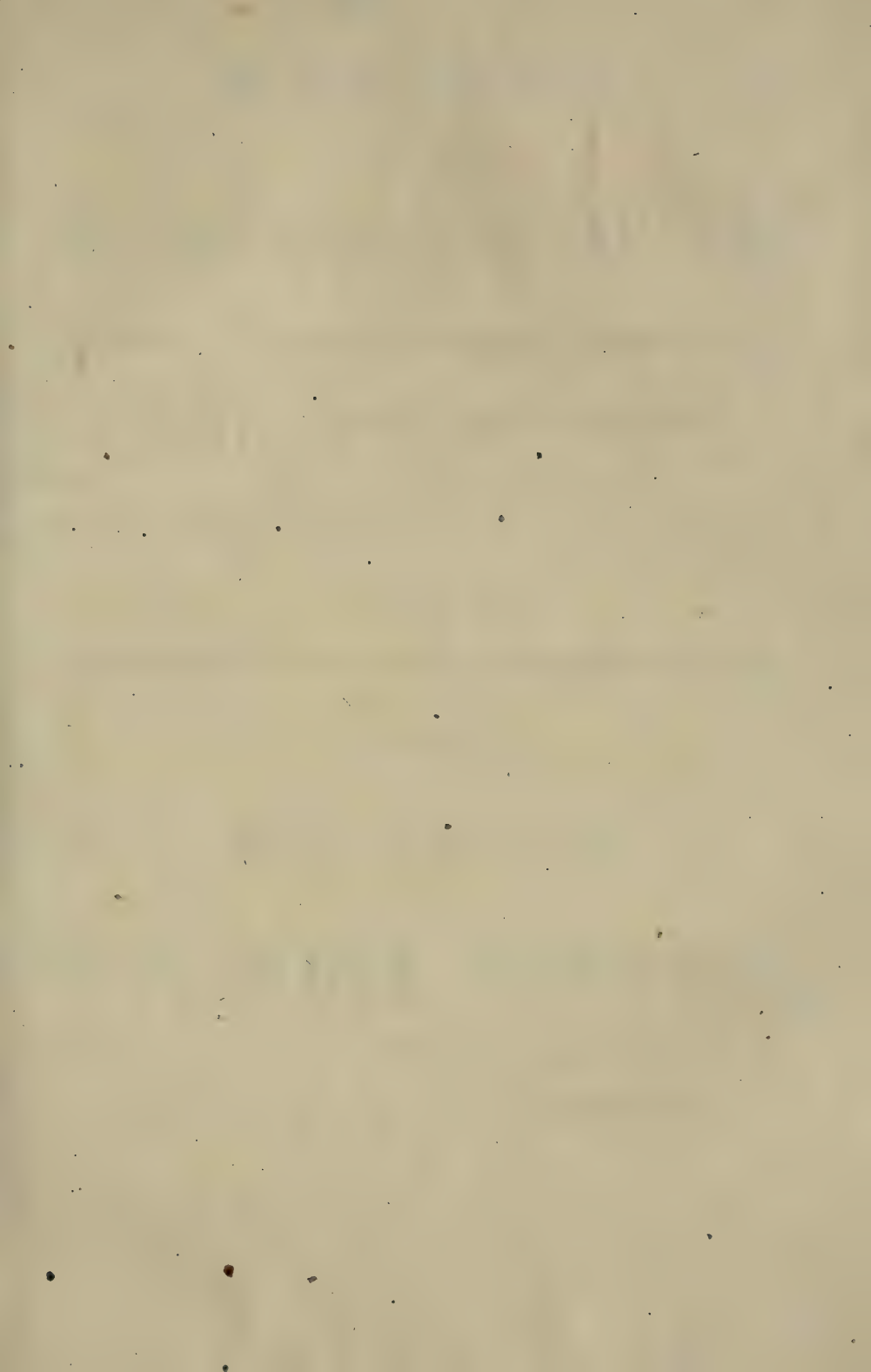
Let us go forward, then, offering the Constitution as a common Constitution, the laws of the nation as common laws. Blows for armed rebels, but no chains for subjected citizens. With such a policy, Mr. President, we may hope to see the foundations of our Republic, now shaken and disturbed, settled upon a deeper and broader basis. I believe myself that this crisis has been demanded to establish our political institutions upon deeper and more enduring foundations, sufficient to sustain a structure to continue through the ages.

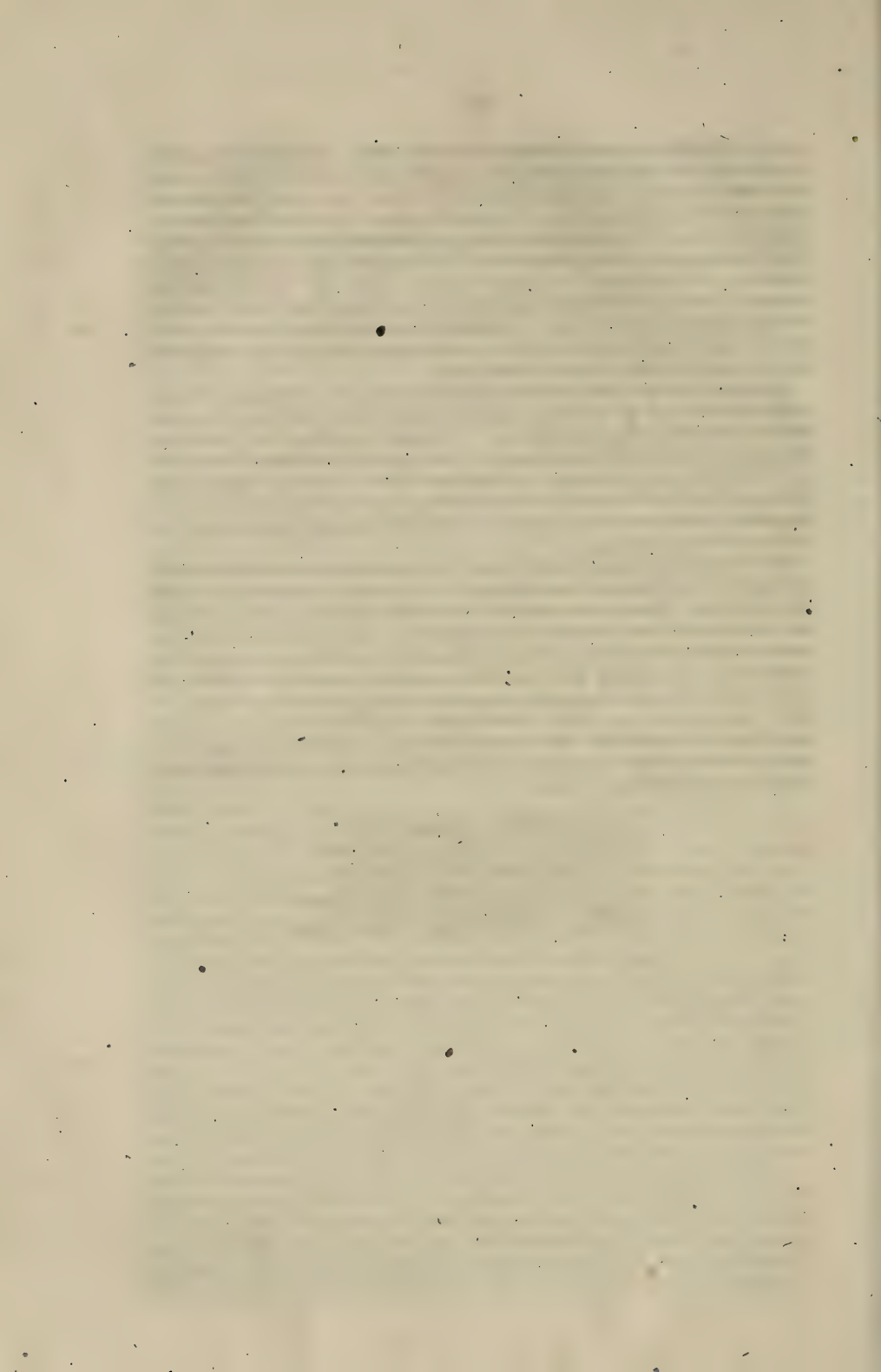
Mr. President, I cannot permit myself to think that unwise counsels will be permitted to prevent a consummation so worthy of the prayers of all true patriots. There is too much of calm and considerate judgment here and elsewhere in the country, to unnecessarily hazard the results of the present war, and with it the great experiment of popular government. No matter how threatening may seem the measures proposed by Senators, I shall trust in the well-advised and conservative judgment of the Senate. I shall maintain all my faith. I shall look hopefully forward to a speedy peace and a re-established and fraternal Union, a Union so strongly and deeply founded that we may all of us feel justified in apostrophizing this great, fair, and free land of ours:

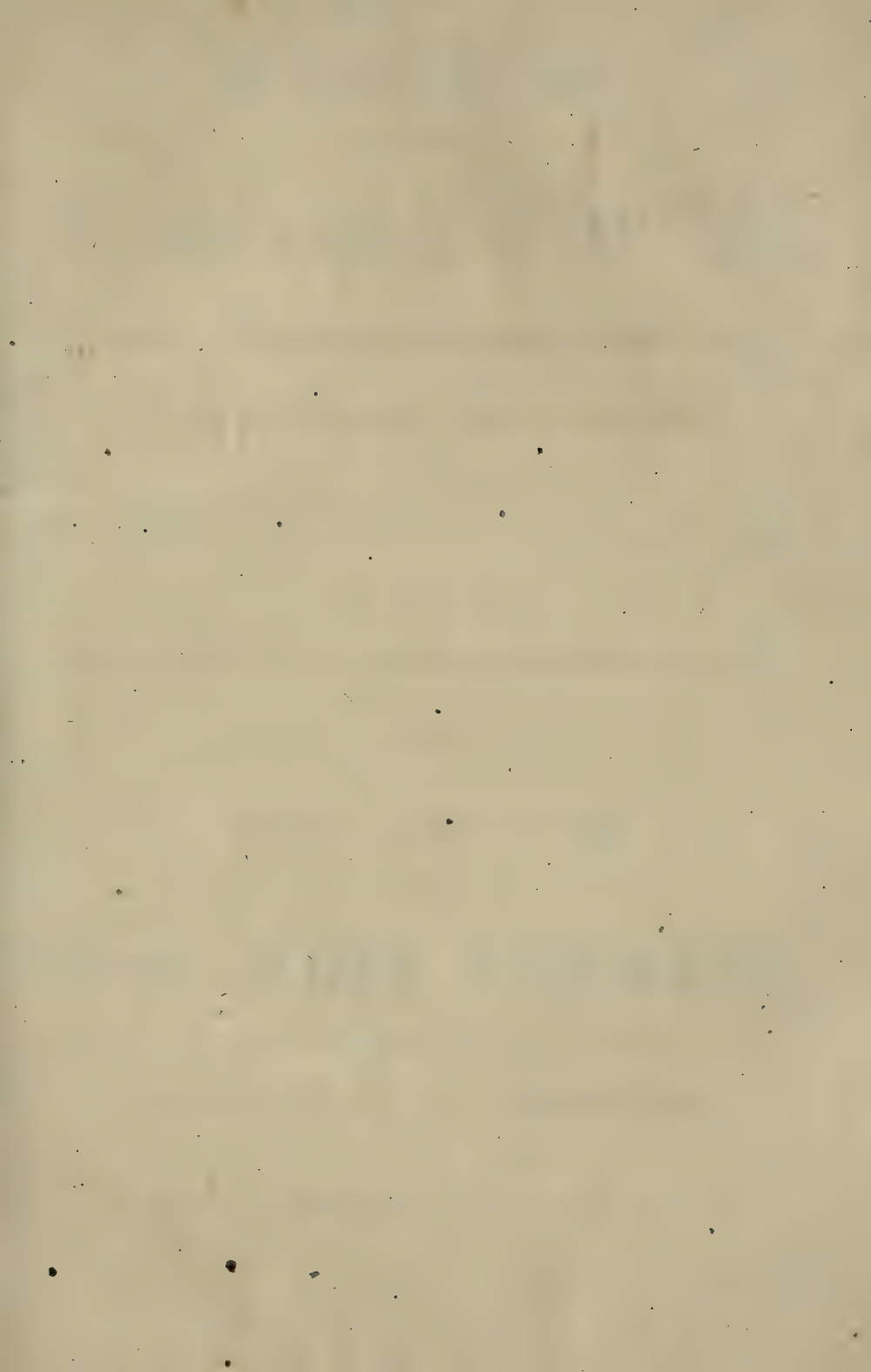
"And thou, my country, thou shalt never fall,  
Save with thy children. Thy maternal care,  
Thy lavish love, thy blessings showered on all,  
These are thy fetters. Seas and stormy air  
Are the wide barriers of thy boundaries, where,  
Amid thy gallant sons who guard thee well,  
Thou laugh'st at enemies, who shall then declare  
The date of thy deep-founded strength, or tell  
How happy in thy lap the sons of men shall dwell."















27.  
S P E E C H

DELIVERED BY

*James*  
MAJOR-GENERAL MCDOWELL

Commander in Chief of the U.S. Military Forces on the Pacific Coast,

AT PLATT'S HALL, SAN FRANCISCO,

ON THE

EVENING OF FRIDAY, OCTOBER 21<sup>ST</sup>, 1864,

AT ONE OF THE

Most Crowded and Enthusiastic Meetings ever held in this City.

---

S P E E C H

OF

HON. JOHN CONNESS,

DELIVERED AT

PLATT'S HALL, SAN FRANCISCO,

ON

TUESDAY EVENING, OCTOBER 18, 1864.

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

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# SPEECH OF MAJOR-GENERAL MCDOWELL

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When, soon after my arrival in California, I met for the first time the citizens of San Francisco on a public occasion, and evaded as long as I could, and finally declined ; when I could evade no longer making an address, or even a few remarks—though the occasion made it eminently proper and fit that I should do so—I acted in accordance with my feelings, still unchanged in that particular, and in harmony with the antecedents of my whole life. I have ever had the greatest repugnance to mingling in any way with the current party politics of the day. It would be difficult to find any man throughout the United States of my age who has had so little to do with them as I, and it has been with a reluctance, that I fear I shall fail to make you appreciate, that I have within a few days broken through a life-long rule, and attended a political meeting, and ventured to make a public speech. Nothing but an overpowering sense of what I think is due from me in this crisis could make me so far deviate from a course I have hitherto followed, and which is in every way so much more congenial to my tastes, my prejudices, and my habits.

But I have been told by those whose opinions in such matters I respect, that there has been, and still may be, an impression prevailing to some extent in the States on the Pacific coast, that in the political contest now pending, the sympathies of the military Department of the Pacific are generally for the officer who has been placed in nomination by the party who oppose the re-election of Mr. Lincoln !

Also, that as the next President will still have war on his hands, it is the belief of a respectable party that it is in the interests of the country that our next President should be General McClellan, who is competent to carry on the war, rather than Mr. Lincoln, who is not. That, therefore, it has become a question of some considerable interest, and one which would be apt to influence many well-intentioned and patriotic men, whether General McClellan continues to receive the confidence and support of his fellow-soldiers, for, if so, under existing

circumstances, this would be an argument in his favor.

I am not here to pledge the sentiments, much less the vote, of any person in the military service of the United States in the Department of the Pacific, but myself. This is a matter foreign to my duty ; but, in the time I have been here, and with such opportunities as my duties have given me to become acquainted with this command, thus far I have heard of but very few persons in the Department, who have not the opinion, I have thought, and still think, all officers and soldiers should have as to the existing war, as to the nature and extent of the support the Government should receive in its efforts to maintain it, or as to whom the government of the nation should be entrusted—those who now administer it, or those who seek their places. And I believe they will do as I intend to do, though not because of my intention or of my acts, but because their own good sense, and their true, sound, and self-sacrificing patriotism tells them to do it—vote for the re-election of Mr. Lincoln.

In ordinary times, when the country is in its normal state of peace and prosperity, I have ever maintained, for reasons too obvious to dwell upon, that officers and soldiers should have nothing to do with the ordinary political contests of the day—not that they should feel no interest in them, and exercise, if they are in a position to do so, their right of suffrage, but that they should not take an active part ; but in the present contest, they have not only the general interest of American citizens, but of every lover of civilization, of freedom, and self-government. Besides the special interest—and it is a deep and abiding one—that is felt by every person who has done, and is again to do, battle, and peril health, limb and life for that cause, concerning which the stay-at-home voter speculates, argues and questions, and this interest is become greater since a soldier has been taken up by the opposition. I feel, therefore, there is no class of Americans to whom this next election is so

momentous, none who have a better, few so good a right to be heard, or whose votes should have more influence.

As the political, moral, social and humanitarian aspects of this mighty struggle have been so frequently, so recently, and so ably discussed by those who have made them their special study, I will confine myself to the practical question as to whom the country should entrust with the management of this war from and after the expiration of the present Presidential term.

It is not now a question whether a better man might or might not have been nominated from the leaders of the Union party, or a better or worse General might have been taken up by the opposition. The question is narrowed down to a choice between two persons—Mr. Lincoln and General McClellan. I have not read with any great care the Baltimore platform of the Union party, on which Mr. Lincoln stands, or the Chicago platform of the opposition, on which General McClellan does *not* stand! and I think the mass of the country will not recollect much of either of them. But we laymen in politics know enough of these platforms; enough of the two parties; enough of the two candidates and their supporters to be able to see the position they do, in fact, actually occupy. They both seek peace!

Mr. Lincoln leaves us in no doubt as to the terms on which he seeks it. He wishes it after the rebellion is put down, after its armies are defeated and dispersed, and the flag of the Union is hoisted, respected and recognized over the length and breadth of the land. He does not want peace till it is, nor should any true American wish it.

General McClellan either means to seek peace by treating with traitors in arms, as if they belonged to what they claim to have, a separate independent sovereignty, invaded by a hostile foreign nation; to seek it by compounding this felony of secession, or he means to seek it on the same basis and conditions as Mr. Lincoln.

If on the former, the question needs no discussion; if the latter, then it comes to the point—that as both are seeking the same conclusion to the war and on the same terms, and I am willing, for the purpose I have now in view and the remarks I have to make, to admit it, then, wherein does the character, the patriotism and the talents, the acquirements, the public services and the antecedents of General McClellan make him, rather than Mr. Lincoln, the better man to carry on this war, and terminate it by an honorable and a lasting peace?

Both these men have been before the nation during this war, in the two most prominent positions. It is so well known what Mr. Lincoln is, and what he is not; what he has done, and what he has omitted to do, that I will

only refer to him incidentally with his opponent.

It is not pretended he has made no mistakes, and as I do not admit he should be set aside because he has not, I do not, on the other hand, propose that General McClellan should be rejected because he, in his turn, has made them; for it has been truly said, by one of the greatest captains, that “he who has made no mistakes has never made war.”

But the question is, is it true that General McClellan has that breadth of brain, that greatness of heart and that depth of soul, that comprehensiveness of view united to the knowledge of detail, those high professional acquirements combining the theory of war with the practical execution of its laws and maxims; that high, pure patriotism, unsullied by any unworthy ambition, and devoid, as he so frequently protested it was, of all personal considerations? Did he come, as he says, with reluctance, and at a sacrifice of his private happiness, from what he calls the obscurity from which events drew him, and—what is of more consequence—is he honestly anxious to return to it? Is it true, as he states, that his nomination was unsought by him? Did he never look forward to it? Did he never do anything to procure or induce it? What I have to say will bear more or less on some of these points.

I do not propose that my remarks shall be in reference to events in their chronological order, or in any particular order at all. Nor do I mean, by citing some instances, to have it inferred there are not others perhaps stronger than those I bring forward; but they are those with which I have been in some way connected or concerned, and in relation to which I therefore feel more particularly called on to speak.

The incidents of military service brought me on duty in the city of Washington, just prior to the inauguration of Mr. Lincoln. In the service then at the capital were Cooper, Lee, Joe Johnston, Huger, Pemberton, Magruder, Sam Jones, Fields, Lomax, and Elsey, all of whom left the Government in its greatest need, to become leaders in the enemy's army, and I soon found myself one of the senior officers there; and as I did not follow the example of those I have named, and did not go, I naturally came to be trusted, confided in, and, to a certain extent, consulted. The most of those whom Mr. Lincoln had in his Cabinet confessedly knew nothing of either military affairs or military men.

It was thus I came to have a full share in the responsibility of bringing Gen. McClellan into the military service, and of placing him, so far as my opinion and earnest recommendation went, in the high position he soon filled.

Here let me ask your pardon for referring to a personal matter, and say, once for all, and in answer to not a little that has been said on the



subject, that I am under no personal obligations whatever to Gen. McClellan, and as illustrating a prominent trait in his character, I will add, that I once thought I was, in one particular; but I see from his official report that he says he "carefully abstained" from doing what, before it was written, he told me and my friends he had done.

Immediately after the disaster of Bull Run, Gen. McClellan came to Washington to command the forces in that vicinity. When he first came he had, I believe, the proper feelings and views of a soldier, and was for immediately doing something to retrieve the ground lost in that battle. In his conference with me his whole soul seemed to be in that direction. He wanted to know how soon a force of 20,000 men could be had for a short service. He spoke of coming over the river (Gen. Scott was then in command in Washington), and of encamping with his army. He came at a time when the troops on the Virginia side were in large numbers going out of service, and as the force he named could not be immediately assembled from the command on that side, the plan, if any, was given up, and nothing whatever of an offensive character at all commensurate with his forces—soon increased to an immense army, with the enemy for many weeks not further off from him than Oakland is from this hall—was done during the months of August, September, October, November, December, January, February, and March.

Gen. Barnard, in speaking of this delay, says:

"Of all Gen. McClellan's faults and incapacities, nothing, not even his irresolution and mismanagement in the face of the enemy, or his inability, ever, in any case to act when the time came, furnished a clearer proof of the lack of those qualities which make a great general or a great statesman than his failure to do something for these eight months."

Gen. McClellan, in justification of this delay, says, after reciting the instructions given to the officers commanding the armies in Kentucky, Missouri, and the expeditions to North Carolina, South Carolina, and New Orleans:

"The plan indicated in the above letters comprehend in its scope the operations of all the armies of the Union, the Army of the Potomac as well. It was my intention, for reasons easy to be seen, that its various parts should be carried out simultaneously, or nearly so, and in co-operation along the whole line. If this plan was wise, and events have failed to prove it was not, then it is unnecessary to defend any delay which would have enabled the Army of the Potomac to perform its share in the execution of the whole work."

When were these instructions given? To Buell on November 7th and 12th; Halleck, November 11th; Burnside, January 7th; Sherman, February 14th; and Butler, February 23d.

Well, what, if anything, was done by the Army of the Potomac prior to even the earliest of

these dates? *Nothing!* Why was nothing done? Was the enemy inaccessible to the army? No, not further off than the seal rocks from this place. Were they so entrenched, so fortified, or were they so numerically our superiors as to make it impossible to dislodge them? Nothing of the kind. We it was who were intrenched, and our forces, compared to those who occupied Munson's and Upton's Hills and adjacent positions, were more than three to one, not counting those on the Washington side. Was there any co-operation required from any other army, or was any possible? No. The nearest army was then in Western Virginia, more than two hundred miles off. Why, then, was nothing done all time by one who, in the beginning, was so anxious for 20,000 men for a short expedition? The men he had; and the enemy had greatly shortened the expedition to be made. It was a thing to be done between breakfast and dinner, and involved no transportation of baggage. It was because he had become thus early filled with ideas of personal aggrandizement, and he cared not at what cost he pursued them.

It is well known to many who were in Washington at that time, how—on account of the hopes centered in him, of the immense trust and power conferred on him—he absorbed all the interest of the day. Foreign ministers spoke of him at the dinner table as the next President. The opposition saw in him, at an early day, material for their present purposes; and the press of all parties vied with each other who should sustain him the most thoroughly. It was natural, under the circumstances, they should. *We all did*; and had he realized but one tenth of what he promised, and had he shown an average amount of earnestness, of sincerity and of disposition to self-sacrifice to which he so often made claim, he would not now have an opponent in Mr. Lincoln for the Presidency, but would have gone in by the acclamation of all parties. But as it was, he wanted to make sure of his case; he would run no risk *himself*; others must do that. He cared not at what cost of millions of treasure, and took no thought of the thousands of lives, so he made his election sure. He had the highest place in the army. He stood well, and, following the old adage, *he stood still!*"

He says in his report he had hoped to make a general advance during the good weather in December, but was defeated in that hope by—not the condition of the Army of the Potomac—but as he says, by the "utter disorganization and want of preparation which pervaded the Western armies." They lacked, he says, when he came to command as General-in-Chief, "transportation, arms, clothing, artillery and discipline,"—certainly a bad state for an army to be in. But he does not say that one of the great causes of their deficiency in the material



of war was on account of his absorbing everything for his own army; for even before Gen. Scott retired, he had everything he asked for that could be had. But his army being in good condition, and the Western armies being deficient in everything which goes to make an army efficient, is it not strange that these Western armies moved and fought the battles of Mill Springs, took Fort Henry, Fort Donelson, Columbus and Nashville, and reached the southern borders of Tennessee before the Army of the Potomac under McClellan had fairly inaugurated its campaign?

Where here was that grand co-operation of which McClellan speaks, and of which the Army of the Potomac was to perform its share? The army attacked nothing, and did not prevent the enemy—what was left of him—from retiring at his own good pleasure and without molestation from Manassas, and going where he pleased, and wherever his means of communication enabled him. This grand combination was called in the language of the day, the great Anaconda movement. It was claimed for it that it was something Napoleonic in its comprehensiveness, something above the appreciation of the ordinary matter-of-fact man. Whatever it was, good or bad, his part in his own plan was not carried out. He kept his own especial well appointed army inactive, and left the badly prepared, badly equipped, badly supplied Western boys to do the fighting, and they did it—and no credit or thanks to him, either.

In connection with this subject, and as an illustration in a remarkable degree of the relations between Mr. Lincoln and Gen. McClellan, I will mention here some interviews between Mr. Lincoln and myself in the early part of January, 1862. What occurred struck me, at the time, as something so extraordinary in the history of a great nation, revealing a state of affairs that I am quite sure never existed before, and I was a sure could never exist again. That I made, at the time, notes of these interviews, and have thus retained them fresh in my mind.

The questions discussed at the time have long since become matters of history, and I feel, on that account, and because of existing circumstances, justified in referring to them.

It was on the 10th of January, 1862, that, being at Arlington, I received a telegram, and soon after a confidential note, saying the President wished to see me. I went to the White House, and was ushered into the northeast room, where I found the President and Gen. Franklin. The President appeared to be greatly depressed in consequence of the desperate condition of the national affairs. He spoke of the exhausted condition of the treasury; of the loss of public credit; of the Jacobinism in Congress; of the delicate state of our foreign relations; of the bad news just re-

ceived from the West, as contained in a letter from General Halleck, on the state of affairs in Missouri; of the want of co-operation between Generals Buell and Halleck, each having to report direct to Washington; but, more than all, of the sickness of General McClellan.

The President said he was in great distress, and as he had been to General McClellan's house, and the General did not ask to see him, and as he must consult somebody, he had sent for General Franklin and myself, to obtain our views, and our opinion as to the possibility of soon doing something with the Army of the Potomac.

To use his own expression, "if something was not soon done, the bottom would be out of the whole affair!" and "if Gen. McClellan did not want to use the army, he would like to borrow it, provided he could see how it could be made to do something."

It is unnecessary to go into the details of the conferences had on this occasion. They lasted several days. In reference to the movement of the army, I advocated its going out from Alexandria against the enemy then in front of that place, and Gen. Franklin, at first, favored its going by way of York River. We directed our inquiries to both cases, and were ordered by the President to obtain all the information necessary to form an opinion from the staff officers of the Army of the Potomac.

It was on the 10th of January that the President in person went to the headquarters of Gen. McClellan, but could not see him. Secretary Seward had also gone to McClellan's headquarters, but was refused admission because the General had been, and was, so sick that he could not be disturbed. This, at a time when Gen. McClellan's chief of staff was absent sick, and when there was no one at Washington but Gen. McClellan himself who knew anything about his plans—whatever they may have been—or the instructions to be given our armies in the field at a time they needed them to secure their effective co-operation, or to place them in a position or condition, for the campaign.

Yet, if you will refer to Gen. McClellan's report, you will see that just prior to this date, when he could not see the President of the United States, nor the Secretary of State, he was (January 7th) writing despatches to Burnside, and I was assured by a gentleman of high character and position, and of undoubted veracity, that at this very time of our conferences, he himself had had an interview with McClellan, not on his own direct application, which had been denied, but through the intervention of a reporter of an influential newspaper, the New York Herald.

During these conferences with the President, and shortly after the visit of the gentleman before referred to—if, indeed, not in consequence

of it—Gen. McClellan left his house and went to see the President. When he did, the President told us that, as Gen. McClellan was now looking very well, and would take charge of the army himself, he would dismiss further proceedings with us, but he wished we would come together once more and meet Gen. McClellan.

At this final meeting the President explained to him why he had called in and consulted Gen. Franklin and myself, going over pretty much the same ground he had already gone with us. To all of which Gen. McClellan said, "the case was so clear a blind man could see it."

At this meeting, where Gen. McClellan, Gen. Franklin, myself, and several members of the Cabinet were present, the subject of the ensuing campaign was brought up, and a member of the Cabinet put a direct question to Gen. McClellan as to *what* he intended doing with his army, and *when* he intended doing it? After a long pause, he answered that he was very much averse to telling his plans, as, in military matters, the fewer knowing them the better; that he would do so if the President ordered it!—but "that any movement of the Army of the Potomac must be preceded by that of Buell's army in Kentucky, and that that movement [with emphasis] might now be forced!"

The President then asked him: "Have you counted on any particular time—I do not ask what that time is; but have you, in your mind, any particular time fixed when a movement can be commenced?" He replied, he had. "Then," said the President, "on that I will adjourn this meeting!"

I cite this as an example of great trust on the part of the President, and as showing to what an extent Gen. McClellan was allowed to have everything his own way.

This movement of Buell's in Kentucky, which Gen. McClellan thought, in the middle of January, *could be forced*, was nothing less than a march through Cumberland Gap to Knoxville, to cut off railroad communications from Virginia to the South and West. This was to be done by this badly supplied, badly armed, badly clothed, and badly disciplined army, over two States, Kentucky and Tennessee, and a chain of mountains; whilst McClellan, on a subsequent occasion (October 7th, 1862), declared that he had concluded to adopt for his fine army, "the line of the Shenandoah, for immediate operations against the enemy, now near Winchester." But that over the smooth, broad stone road which leads up this valley, he says: "If the enemy abandon Winchester, and fall back on Staunton, it will be impossible for us to pursue him by that route." "We cannot go," he says, "more than twenty to thirty-five miles beyond a railroad or canal terminus!"

What is this line, so impracticable for McClel-

lan? The very one on which—a hundred miles from where he said he could not go—the gallant Sheridan has gone, and on which, near Strasburg, a day's march beyond McClellan's stopping point, Sheridan has just gained his great victory over Early!

January and part of February having passed by without anything being attempted by the Army of the Potomac, the twelve Generals of Division were called together in council at McClellan's headquarters, to determine on a plan of action, to be submitted to the President. The question was determined on personal grounds, not on the merits of the case. I knew nothing of political caucusses, but the action then appeared very like what I suppose them to be. After some discussion between the Generals, Gen. McClellan came in and submitted his plan, which was to leave the enemy where he was, and fight him where he was not; to embark his army at Annapolis, and go around and up the Rappahannock to the rear of the enemy, and thence into Richmond before the enemy could take his army back to its defence by direct railroad communication. This magnificent scheme involved, first, the division of his army into two parts, and second, the embarkation of the larger part, with its batteries, cavalry horses, forage, munitions, siege guns, commissary stores, teams, etc., and transportation of the same by water, and land marches, to the gates of Richmond! And all to be done in a *week* from the time it should be commenced.

To show how little he had digested his own plan, and how just were the objections urged at the time, as to the possibility of his making such a movement so as to answer his purpose—just refer to his own opinions when he became wiser by experience, when, on being reproached by Halleck for his tardiness in coming up with his army from the Peninsula to reinforce Pope, he says—August 12th, 11 p. m.:

"With all the facilities at Alexandria and Washington (6) six weeks, about, were occupied in embarking this army and its material."

Yet he was to march forty miles to Annapolis, and embark without so many facilities, and get to the Rappahannock in a week! and before the enemy should find it out and get down to resist him.

I opposed the plan as impracticable at the time, and for the purpose required. Three Generals—Sumner, Heintzleman and Barnard—agreed with me in the plan of going to the front from Alexandria against the enemy, where he then was, with the whole army, instead of a part, and by the shortest line. Eight were against us—a majority of two thirds. Then it was proposed—as is the case, I understand, among politicians—to *make it unanimous*. This I refused to sanction, so far as I was concerned. We went to the President



in a body, and found him doubled up, sitting by the fire-place. He said he was glad to see us; hoped something would be done; for, as he remarked, "Napoleon himself could not stand still any longer with such an army. I don't care, gentlemen, what plan you have; all I ask is for you to just pitch in!"

When the scheme was broached to him, his countenance fell, and he said he did not see how he could get his consent to allow the army to leave Washington with the enemy in front of it and the Potomac blockaded; that if the army was to be removed from its present base, some of it at least must go down the Potomac!

Nothing came of it, however, for the enemy having staid as long as he pleased, left the Potomac and abandoned Manassas, and we went there, after they had retired in safety!

McClellan then went to the Peninsula, and took up the plan of campaign by way of York River and the Chickahominy.

The Peninsula campaign and the causes which led to the separation of my corps from Gen. McClellan's army, are among the most important matters effecting Gen. McClellan's reputation. Any account that would be at all justice to them would extend my remarks beyond the time that can now be given. Fortunately, these subjects have been most ably handled by one who, as a soldier, an engineer, as a man of the highest professional attainments, of the greatest military knowledge, as a distinguished graduate of the Military Academy, and subsequently as the Superintendent of that institution, as a mathematician, and a man of science and of letters, and as a man of character and perfect independence of thought, has no superior in the army or out of it. I mean one not unknown to many of my hearers—Gen. Barnard, who but lately gave a beautiful example of self abnegation in asking the President to withdraw his nomination from before the Senate for the place of Chief of the Corps of Engineers of the whole army, when he learned that his senior, Gen. Delafield, was strong enough physically to discharge the duties of the place.

This view of the Peninsula campaign is so full, so overwhelming, that I am sure if my friend—if he will suffer me so to call him—Mr. W. T. Coleman, will be at the pains to procure and read it, he will have an internal trouble, in all candor, to reconcile his position as sub-leader of the opposition, with the conviction that will be forced on his mind of the worthlessness of his chief! There is one point too characteristic of Gen. McClellan, and too much connected with my own operations, for me to pass by. At the close of his report he says:

"The brilliant battle of Hanover Court House was fought, which opened the way for the First Corps (then forming part of the Army of the Rappahannock,) with the aid of which, had it come, we

should then have gone into the enemy's capital. It never came!"

How disingenious, to say the least of it, this is. The First Corps of the Army of the Potomac, as organized by him, consisted of the three divisions of Franklin, King and McCall. Of these, at the time to which he refers, he had Franklin and McCall. He had, on the 7th of June, assured the President he would be in perfect readiness to move forward and take Richmond the moment McCall's division reached him—and McCall reached him on the 12th and 13th. On the 14th of the same month he was still asking for more troops, which he insisted should be sent to him by water. The troops he wanted were under my command and near Fredericksburg. From Fredericksburg to Richmond it is about 58 miles, about the distance from here to the New Almaden mines! The country was the same over which subsequently Grant marched his army. There was then nothing of the enemy between Gen. McClellan's army and mine. The march would not require for my forces more than three days. I had an abundant supply of wagons and beef cattle, yet Gen. McClellan would not hear of my marching down the straight open road, but insisted my troops should be marched to the river and embarked on transports, so as to come in his rear instead of on his right—to come by detachments instead of in a body, even when he knew from his own experience, and was reminded in the most pointed manner by the President that it would take three times as long. He ends one of his despatches at this time with this remarkable statement: "If I cannot fully control all his (McDowell's) troops, I want none of them, but would prefer to fight the battle with what I have, and let others be responsible for the results."

Let it be understood that he had then precisely the control of McDowell's troops which he asked for; but even if he had not, is it not rather an equivocal position for a patriot to occupy, to be willing, in this pert manner, to throw away what he swore before a court, to be a certainty of taking the enemy's capital and crushing the rebellion, because the President, whose orders he had sworn to obey, wished the troops should go to him in the most expeditious manner.

Why was this? He says to the President: "The stake is too great to allow personal considerations to be entertained; you know I have none." He thanks God he is not like other men!

The simple, plain, unvarnished truth, I have been told by those who were in McClellan's army at the time, was that the whole affair was one of personal consideration. He wanted my troops sent to him in such a way as to reinforce his partizans; I subsequently found that McCall's division had been assigned by him to Gen. Fitz John Porter.

One instance more, and I will have done. The conduct of Gen. McClellan at the second battle of Bull Run has been represented by his party as some-



thing noble, patriotic and self-sacrificing to an unheard-of degree.

That on this occasion he was disgraced by the Administration, confined at Alexandria, and compelled for hours to listen to the distant sound of the conflict, and when the army in front was defeated and routed, scattered, disorganized, dissipated, and totally incapable of making a successful defence—he was sought with tearful eyes, and entreated to save the capital, which he magnanimously consented to do!

He protests in his report that he lost time in moving the Army of the Potomac from the Peninsula to the support of the Army of Virginia; that he left nothing undone in his power to forward supplies and reinforcements to Gen. Pope!

He is, I suppose, the best judge of what he was capable of doing. If so, I can only say that it amounted to but little.

The whole of this case is very fully given in Raymond's book on Lincoln's Administration and in the Congressional documents—and these may be safely referred to, to prove, that, instead of doing anything to send reinforcements or supplies to Pope, he did just the reverse. And I here wish to assert it as a fact, which you can see yourselves from McClellan's own reports—in the books before mentioned—that one of his first acts on taking charge of the duty assigned him at Alexandria, was to countermand the order for Cox's brigade, then on their way to Pope, and place it with Franklin's corps. And that this corps—ordered over and over again, in the most peremptory manner, to move by forced marches, and reinforce an army then actually engaged in a battle, the distant sound of which he heard—was not suffered by McClellan to join Pope till after Pope had been fighting the enemy for three days, and he (McClellan) had succeeded in his efforts to procure his defeat.

First Cox's command, then Franklin's Corps—then Sumner's, and then others—all withheld! Sumner himself testifies that had he been ordered forward, upon landing at Alexandria he would have been in the second battle of Bull Run.

I will not, I am sure, be thought by any one who studies the testimony, to use too strong language when I say these corps were all withheld on the most miserable, flimsy pretexts—such pretexts as would have caused him to withhold Kearney, Heintzelman, and Porter, had he arrived before they marched.

He also refused to send forward any supplies till Pope should send his troops—then engaged with the enemy—back to escort them!! This when Banks' wagon train was coming down from the front without any molestation whatever!

One fact of his conduct on this occasion should not be forgotten. He was told by the superintendent of the railroad—Gen. Haupt—that Gen. Scammon was holding Bull Run bridge with 1,500 men, and needed reinforcements. Now, this is a case in which strategy is not involved, but a plain simple question, that any person in this assembly is perfectly competent to understand—an officer holding a position with a inferior force, and within a few miles of a large body of his comrades.

The following is Haupt's testimony in the case:

*“Question—What action did Gen. McClellan take upon the information which you communicated?”*

*Answer—He decided that it would not be safe to send an expedition to reinforce the command of Col. Scammon until he could get further information of the number and position of the enemy.*

*Q.—Did you recommend that the command should be reinforced?*

*A.—I was very anxious that it should be either reinforced or relieved. I wished also to bring off the remainder of Gen. Taylor's command, and, if I had not found Gen. McClellan, would certainly have sent out a force that afternoon.*

*Q.—Had you reason to believe that this movement could have been made successfully?*

*A.—I thought the circumstances were such as to justify some risk, and as Gen. McClellan did not seem willing to send a force for the reasons assigned, I determined to assume the responsibility of making a reconnoissance on the following morning, unless positively forbidden. I accordingly sent to Gen. McClellan the following telegram:*

AUGUST 27, 1862.

I propose to start at 4 o'clock, precisely, a wrecking and construction train, bound for Bull Run; also, a forage train and subsistence train. It is, perhaps, proper that two hundred good skirmishers should be sent with the trains, who should be at the depot at Alexandria before 4 A. M. to-morrow morning. Gen. Pope will be notified by courier to-night to have his wagons ready at Sangster's Station by daylight to-morrow. If the troops are not here by 4 A. M. we propose to go ahead without them.

H. HAUPT.

Maj. Gen. McClellan.

No reply having been received within the time designated, I sent out the train! I cannot speak in too strong terms of the zeal and courage of the railway employes and of the telegraph operators, who, with a full understanding that the service was very hazardous, volunteered for the occasion.”

\* \* \* \* \*

Not safe to reinforce because he did not know how great was the danger! and then neither reinforcing nor withdrawing this command, but leaving it to its fate!

Fortunately, the indefatigable Haupt, without any aid from the military, and with his brave corps of civilians, railroad employes, and telegraph operators, did what the General did not feel himself authorized on military grounds to attempt!

Haupt further testifies to the fact that nearly all the information given to the Government at Washington, during this battle, was given by civilians! And you will see that not a particle was obtained by Gen. McClellan, though he had under his control nearly 40,000 men, with a sufficiency of everything necessary for the purpose.

The animus with which all this was done was not left in doubt even by his own reports. You will see that he actually suggests to the President to withhold all help from Pope, and to leave him—which means many thousands of gallant men—“to get out of his scrape as best he can!” This on the pretext to make the capital secure!

Yet when, soon afterward, he, McClellan, was again at the head of this army he proposed thus to be sacrificed, he says (September 11, 1862): “But even if Washington should be taken, this would not bear comparison with the ruin and disasters which would follow a single defeat of this” his “army.”

When he had charge of Washington he proposed

to sacrifice the army; and when he has the army, he proposes to sacrifice the capital! Yet he is constantly protesting he has no personal considerations; that high, patriotic, unselfish and disinterested motives only have animated him! Yet will any one, in all candor say, from these statements, that he has not given ample evidence of the very reverse?

How came it that with a knowledge of his conduct on this occasion, the President should have replaced him in command of the army? It was on account of the representations made to him—that that army would not fight under any one else, and that he must accept McClellan or the enemy!

I was at both battles of Bull Run. What I *did* or *did not do* at the first, is of no consequence in this connection; that matter has been abundantly investigated and commented on; but what I *said* is of consequence. For I claim to have given the country a true and faithful account of it—one that has never been gainsaid; and I claim therefore to

be believed now when, in reference to the second, I tell you that those representations as to that army being routed, disorganized and demoralized, and not willing to fight under any one the Government might assign to it, are false, utterly false! and that personal considerations were at the bottom of the whole matter; and it was on personal grounds, and not on public and patriotic ones, that McClellan was at this time forced on the President.

This is the General whom the opposition wish to take the place of Mr. Lincoln. Mr. Lincoln is confessedly not a military man. You have seen how he confides in and sustains those whom he trusts. Whom does he now have to conduct this war? who are his Lieutenants?

Look at the brilliant campaigns of Vicksburg, Atlanta, and the Shenandoah, and tell me if you want other or better men than Grant, than Sherman, than Sheridan—("No! no! no!") Then here I rest the case without another word on this subject.

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## SPEECH OF HON. JOHN CONNESS.

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At a Mass Meeting of Union men, held at Platt's Hall, San Francisco, on Tuesday evening, the 18th instant, Senator Conness was introduced to the audience, and spoke as follows:

Mr. Chairman, ladies and fellow-citizens of San Francisco: I have been summoned before you to-night by the inexorable order of the Union State Central Committee. It is not, fellow-citizens, by even a wish of mine that I appear before you, and you must not think it strange that I say this. However I may have acquired some reputation for public speaking by reason of its having been forced upon me in conflicts through which I have passed, it is not my *forte*. I fear it. I fear public audiences, and more than I can tell you. In addition to that, fellow-citizens, in this canvass I have been unfortunate enough not to be possessed of my ordinary vigor, and I have been advised of the necessity of husbanding what little I have, in order that in the sphere of my official duties I, too, may contribute to the success that we all so earnestly contemplate—the preservation of the country, of liberty and freedom in America and the whole world. [Applause.]

It has been said by some that there is a lukewarmness felt by me in this contest. Why, fellow-citizens, there are none who have heads to think and hearts to feel who can possibly be lukewarm in a contest such as the one before us. [Applause.] The mightiest stake is at issue, the greatest contest is being waged that was ever known in America. Heretofore, for generations past, since our country began, all questions, no matter how important their

character, were determined by the popular voice. We are now to determine by the popular voice the great question of who shall be the Chief Magistrate of this nation for four years to come; and by and by, in addition to that, we are to determine whether or not we shall continue to be a nation—whether or not the United States of America shall still be considered, and be in fact, the home of the oppressed of every nation; the home, the secure home, of liberty. [Applause.] But while this civil contest is going on at this time, war, deadly and horrible war, is carried on upon the fields of this country—a war in which the lands and homes of the country are laid waste and her sons are slaughtered by hundreds of thousands. We have thus a double contest inaugurated against us—one of the most important civil contests and one of the most terrible and sanguinary conflicts that the world ever saw.

Who is it that is responsible for this double contest? Who is it that has invoked this terrible war and brought it upon us? In part, that is the theme of our discussion to-night. And I submit now to this audience, to you, fellow-citizens, to every man in the land who has a spark of reason and a particle of justice in his composition—I submit to all the question whether there was cause for this terrible war; whether we might not have gone on as we had gone on ever since the nation began its existence, submitting every question to popular arbitration, and in that respect commanding the admiration of all the nations of Europe? Until this war began, no matter how fierce our contests were, no matter how strong and deep our convictions were,



when the majority decided, the great body of the people acquiesced in the decision. Then we were the admiration of the civilized world; now, we have almost become its sport.

I say we have come together in part to discuss, to-night, and determine as to who are responsible for this terrible change, and to shape our actions accordingly. No ordinary influence could have produced this great result, this dire calamity. It must be a cause or causes that enter deep into the convictions of men. It must be a cause or causes that stirred up the passions of men to their deepest depths and have aroused them to the exertion of their utmost power. What was it? Some States of this Union professed and pretended that their rights were invaded—that they possessed a class of property guaranteed to them by the Constitution of the United States, which another part of the country was constantly engaged in trying to wrest from them. That was their assertion. They maintained that assertion in various forms for a number of years, and what is singular and remarkable is, that they maintained it strongly and constantly while they as constantly held the power of the nation in their own hands. They invariably, or almost invariably, elected the Chief Magistrate of the nation. They almost invariably had Congressional power. They organized the Courts. They obtained decisions; and their fellow-citizens of the free or Northern States acquiesced in the decisions made. If they protested civilly, if they carried their protests into discussion, public discussion, complaint was made by Southern men in the halls of Congress, and on the stump in the various districts and States. Yet the protest of the North, at the best, was but the expression of an opinion, based on the nobleness of nature and humanity, against human slavery. [Applause.] But so educated had the people become even to the existence and toleration of slavery which the great majority of them hated and detested; so educated, I say, had they become, to acquiesce in the decision of the majority, that, excepting in the rarest instances—instances so rare and so contemptible by the measure of their power, as to be unworthy of notice—nothing but civil discussion ever arose as a consequence of any decision. But they talked of State rights—the men of the South. What State rights had they been deprived of? As I before stated, they invariably controlled the power of the Nation. They held the offices of the Nation; they filled the army, they filled the ranks of the navy. To such an extent did they do that, that it was no matter whether the President elected was a Northern President or a Southern President; they alike had the power, and wielded it. And when they inaugurated this terrible war upon us they controlled the Administration, in the person, aye, the hated and detested person of James Buchanan. [Applause.] They had, through him, filled every embassy that we sent abroad. There was no court of Europe at which we were not represented either by a Southern man, like Faulkner, of Virginia, or a baser and more detested Northern man, like Glacrey Jones, of Pennsylvania. [Applause.] And they were not idle with this great potent agency. Let me tell you, my fellow-citizens, a fact that is not generally and popularly known—and I state it to you from the highest source of intelligence—

that when Mr. Lincoln took the office of President of the United States, in 1861, the education of every court in Europe, aye, and in South America, that was of the slightest political consequence, was complete; having been carried on and completed by American ministers. They had been taught by those ministers that our country and Government were at an end. ["Shame!"] Yes, it is a shame, and a damning proof of a treason early hatched, and thus attempted, in the most fraudulent and despicable manner, to be launched against a generous, a magnanimous and a noble people. [Cheers.]

This fact, fellow-citizens, accounts for a most remarkable circumstance—a circumstance entirely new in the history of the intercourse of nations, namely, the immediate recognition of belligerent powers in this bastard Confederacy. It had no sooner sprung into existence than the powerful nations of the earth recognized them as our equals, admitted their pirate ships into their ports and gave their representatives audiences. This circumstance is accounted for by the fact I have stated to you—that they had been told, and educated to believe, by the ministers of our country, that our nation was at an end; and so they hurried up to divide the garments of Christ between them. They desired to make an early association with the Southern Confederacy. They clamored and strove, each with the other, for early treaties and bargains, by which they could gain advantage; and they were unwilling to listen to the declaration of our Government that we could maintain it intact.

And this state of facts, now forming a part of the history of the country, exists, while those blatant allies, to which your Chairman referred, of the traitors South, now talk about Democracy—of organizing what they call Democracy—that the South in arms against us may carry out their damned purpose of destroying our country, thus pre-arranged and predetermined by those men who had possession of the Government.

I need not say what is so oft repeated, that a more causeless and baseless war the world never knew. [Cheers.] Why, upon the subject of slavery our Government, the Republican Administration, the Republican Congress, offered to do everything. It is within your recollection that one of the very first acts of that Congress was to pass an amendment to the Constitution of the United States which should put it out of the power of the Central Government to affect slavery hereafter in any State of the Union, especially disclaiming the exercise of any such power. That amendment came to our State Capital when I had the honor of a seat there as a representative. It had the name of William H. Seward [applause], Secretary of State of the United States of America, attached to it. I gave it my vote. And I tell you, fellow-citizens, to-night, that it did not get my vote because I loved slavery, nor because I did not detest it; but it got my vote because I felt, as every good citizen felt, that every reasonable concession should be made, that every reasonable protest should be hearkened to, in order that peace and unity might still abide with us. [Cheers.] That Congress, too, although the political platform on which a majority of its members were elected declared in favor of the right of Congress to prohibit slavery in the Territories—organ-



ized Territories on what we call the principle of popular sovereignty, and thus ceased to exercise the power it claimed. There was another great and liberal act on the part of that party—on the part of the men against whom the South launched its complaints, that they were going to take possession of its property, or destroy the value of it, going to ruin its industry, to leave it without State rights or independence.

But more than that, fellow-citizens. While, after the war began thus causelessly and thus basely, the South used its myriads of negroes in producing the means, and the only means, by which war could be made by the people of the South against us, the Government forebore to act against slavery as an institution; and it was not until a very large body of people, an immense body of people, demanded that slavery should be attacked, because it was a war weapon of the South, that the President of the United States issued his great Proclamation of Emancipation, [immense applause] which, let me say to you now, was the first honest word officially spoken by America to the people of the civilized world in favor of the rights of all men. [Great applause.] We, up to the time of the issuing of that proclamation, the enunciation of that great edict, had denied upon all occasions any intention to interfere with slavery. It had been announced, and steadily insisted upon, by the President, by the Secretary of State, by a solemn resolution of our Congress in civil convocation, that the paramount—nay, the great, the only object of maintaining the war against those that made war upon us, was simply and singly to preserve the Union, and to do nothing else. And our President went so far, at a very late period, as to declare that if, to preserve the Union, it was necessary to abolish slavery, he would abolish it [cheers;] but if, to preserve the Union, it was necessary to preserve slavery, he would preserve it. [Applause.] In other words, the preservation of the Union was declared by us, prior to the great proclamation, as the paramount and great object of the American people in the contest. [Cheers.]

There is no doubt, I think, that if a vote had been taken at any time before or at the beginning of the contest upon the question, Shall we have war without seeing its end or termination, and attempt to abandon slavery as a system in the Union, or shall we have peace and Union? a majority would have decided in favor of the latter proposition. But, fellow-citizens, the time finally came when patience ceased to be a virtue, when forbearance was misinterpreted or denominated cowardice, and when the fatal hand of foreign intervention would not have been stayed had not the President, representing the American people, the loyal, humane, enlightened American people, issued the great edict telling the people of the world that we are now for the Union without slavery [great applause]; that there can be no peace with slavery. [Applause.] Slavery was furnishing our enemy with power—building his fortifications, producing his supplies, his forage, his subsistence, and was corrupting the minds of his people and demoralizing the minds of a part of ours, and the Chief Magistrate resolved to strike it down. May the Lord God bless him for that! [Vociferous and repeated applause.]

When the war was begun upon us, a set of men in this State, that we and all loyal men call and know as Secessionists, opposed what they called coercion. They echoed the feeble and traitor voice of the traitor President who had said that there is no power in the Constitution to make war upon a State. States could make war upon States and upon the National Government, and upon liberty; but there was no power in the Government to make war upon a State! The pettifoggish dishonesty of that man, in cooking up and presenting that proposition in that light, cannot be contemplated without exciting the uttermost contempt. Why did he get up a false issue of that kind, that the National arm might be paralyzed? Why did not the base, cowardly man take his position then side by side, as his false Ministers had done—as his Cabinet had done, with the leaders of the rebellion, and aid to the full and entire extent of his power the dismemberment of the Union? Why, if there can be any such thing as an honest devil, an honest devil is more respectable [applause and laughter] than a cowardly, hypocritical, deceitful devil. [Cheers.] I don't know that there are degrees of this kind, but it is enough to say, that in that false and deceitful issue presented by him he exhibited himself in the meanest aspect of them all. [Applause.]

We call them Secessionists, I said. You all remember the session of the Legislature of this State of 1861. Sidney Johnson was in command of your forces here, and in the State Library of this State and in the Supreme Court room there were nightly meetings of those reptiles to determine when blood should begin to flow, when civil war should be organized in California, as it had been organized in Maryland, in Kentucky, in Missouri and in Tennessee. They scarcely called themselves at that time by the somewhat respectable, certainly once respectable, certainly theoretically grand, name of Democrats. Why, there was not a loyal man in the State who had been a Democrat that would allow fellowship with them. [Applause.] They call themselves Democrats now. What is democracy? Is it not that scheme of government which proposes to confer rights alike upon you and upon me? Is it not that scheme of government that proposes the greatest extent of civil rights to mankind consistent with civil order? [Cheers.] If it is not that, it is not worth much, and its votaries, whatever honest votaries it ever had, have been miserably deceived. The men who are now haranguing the multitudes and calling themselves Democrats did not admit then that those original Secessionists were Democrats; nay, they were opposed at that time to being known themselves as Democrats—men like Eugene Casserly. After the Legislature of 1861 had stood up nobly to the cause of the Union, and the minds of the people of the State were aroused, and it was palpable that the Union people would sweep the State by an immense majority, what were Casserly and Hoge, and others like them, doing? I will tell you what they were doing; for I know perhaps more intimately than the great body of the people at large. I sat in the office of Eugene Casserly, in this city, attending a meeting of what was then denominated the Union Democratic State Central Committee, and read (I confess it) admiringly the product of his pen, in the shape of resolutions to be

submitted to that Committee, in which he denounced all party. Those resolutions were all written by him—every line, every word; every punctuation mark was made by him; and they were presented to the Committee, by a traitor named White, who is now upon the secession electoral ticket of this State. [Cheers.] I have here, thanks to the *Sacramento Union*, which keeps an exact record of the times [applause], the resolutions as they came from the pen of Casserly. I will only trouble the meeting and consume your time by reading a very small portion of them ["Read them all," "Read them all,"] to show you the drift of the mind of the man at that time; and then I will, perhaps, attempt to give you some of the reasons for that drift. These are the resolutions before they were amended by the State Central Committee to which they were presented, and as they came from Casserly's pen:

"WHEREAS, The Democratic party has ever been the party of faulty to free government and fraternal devotion to the rights of the States of the Union, and of unwavering fidelity to the laws, the Constitution, the Union and the country—ready to maintain them by all proper means and at every sacrifice;

"And, whereas, The country is now defending itself against a war without justification or decent excuse, waged upon it by certain seceded States, which is manifestly a war for the invasion of our National Capital; for the overthrow of our National Government; the oppression of the loyal States; the subjugation of the Union; a war to humble in the dust our National flag; to wrench from the American people their constitutional rights of determining for themselves their own policy, foreign and domestic, and to blot them out from the class of the great Powers of the world;

"And, whereas, Such war, so aggressive in its character and so deadly in its purposes, forces upon the country an issue which can be met but in one way by any people having the common instinct of self-preservation, or worthy of an existence as a nation;

"Therefore be it unanimously resolved by this Committee, "1. That at this time, when the country is resisting with all its might a war of invasion and destruction, indifference is impossible to the patriot, and neutrality is cowardice, if not premeditated disloyalty." [Applause.]

That is a pretty good resolution. [Applause.]

"2. That the people of California in the past have been most anxious for peace throughout the land, and will hail with joy an honorable adjustment in the future; at the same time they are, above all things, for the Union, the country and the flag against all assailants—no matter who they are, whence they come or with what power armed.

"3. That this is the great crisis of the American nation and name, our State will always, as heretofore, faithfully discharge her constitutional obligations to the Union and the Federal Government, and, as in duty bound, will earnestly sustain the constituted authorities at Washington in all measures necessary to defend and protect either against this most unjustifiable and unnatural war."

The fourth relates simply to steamships. I will pass that.

"6. That all former partisan differences are lost in the present overwhelming crisis; and he who would seek, by reviving them, to distract the people, or to wrest from their honest and patriotic devotion some sordid partisan advantage, is not true to the country nor worthy of the name of American citizen. [Immense applause.]

"6. That as Californians, we appeal to the whole people of California—not to any party—but without distinction of party or reference to partisan issues, to stand with us by our country and our flag, that all may know that the great Union party of California is the overpowering majority of her citizens. [Applause.]

"7. That with these views we cordially invite all patriotic men, who hold these sentiments, to meet in Grand Mass Convention—not Democratic Convention—of the State at Sacramento, on the 4th day of July next, at twelve o'clock, to nominate candidates to be supported at the ensuing election; and we recommend in the election of delegates, that the only test be approval of these resolutions and willingness to support the candidates nominated."

Now, fellow-citizens, I was a member of the Committee that considered those resolutions. My name stands at the bottom of a report of the sub-committee to whom they were referred, reporting them back unanimously for adoption to the committee. We desired then, Casserly desired—he professed to desire—an abandonment of party. That was the temper of the times; and, let me say, it was the only avenue to power. But was Mr. Casserly at that time the advocate of those resolutions because they were true, or was it because he deemed them the true means and only avenue to power? We went into the committee with the resolutions. There was a majority there to strike out words here and there and insert partisan words in their places. This was against the wish of Mr. Casserly. It was against the wish, as I believed then, of the true men in that committee and in the State. But they were so amended. I went back to Sacramento, to the Capital, where the Legislature was still in session, and within a week I discovered that Eugene Casserly had concocted those resolutions to make himself Governor of California. [Cheers.] Fellow-citizens, I tell you to-night from this stand that that was the secret of my candidacy in 1861. [Applause.] When I found beyond any controversy that Mr. Casserly was in league, as he was at that time, with men that I believed to be false to the country, I determined, for one, that if any effort of mine could prevent it, the power of the people of California should never be vested in his hands.

[Great applause.] The contest went on. It was a remarkable one, and Casserly was beaten in the popular Convention of the party, and he did not become Governor. [Laughter and applause.] You can now see by his present course how basely he would have betrayed the Union men of California. He stands to-day more responsible than any citizen of this State for the unpatriotic—I undertake to say, it, the unpatriotic—position of a large portion of the Irish people of California [applause]—a people who love liberty by instinct—[cheers]—with whom love of freedom is a passion, but who, unfortunately for themselves, have too little learned from their teachers at home and abroad the value of individual judgment, and who are thus led off by false and heartless teachers and traitors like these. [Tremendous and long continued applause.] I pass over and by the ascent of that man into my room at the Orleans Hotel at Sacramento and the presentation of his hand voluntarily; I rarely seek the hand of a Judas—[cheers]—with the assurance that he would support me, who had received the nomination. I pass that over, as well as subsequent acts of antagonism and opposition to the candidate nominated in opposition to me. They cut no figure in this contest. Perhaps it was well that the people chose Leland Stanford as Governor. [Applause.] It may be that if I had been chosen I too would have been false to liberty. ["No!" "No!" "No!"] But, fellow-citizens, my words are on record on that point. After I had received the nomination for Governor, and Leland Stanford was nominated, I met him in the Orleans Hotel in Sacramento, and I said to him in these words: "Governor, we are both nominated for the office of Governor. One of us, in my opinion, must be elected. I don't know what your



course will be if you are elected, but I will tell you what mine will be: Believing it to be the first necessity, a national necessity above and beyond all party, I shall, if I get the power of the State, undertake at once to organize a Union party in California; and if any partisan of mine shall put himself in my way in that undertaking I will cut him off at the knees." [Great cheering.] If Casserly had been elected I don't think he would have swung his political scythe among the men who would stand in the way of organizing a Union party. No. Shortly after his defeat before the Convention his common language was, as this great contest progressed, expressions of grief for what they call their Southern brethren—that now he was in favor of establishing slavery in every free State. ["Nary time."]

Such is one of the men who undertake to teach, to govern, to reign, to control the Irish heart of California. O God! O God! in Thy mercy look down and act upon this people! Take them from out the hands of these vile teachers and make them what Thou intendest them to be, advocates and apostles of liberty and freedom! [Tremendous applause.] Where, I ask, and when, out of the republic, and before they came into it, did they, the Irish, find their education against freedom to the negro? Why, I undertake to say, there is none of it in the land from which they have come. [Cheers.] O'Connell denounced it. The inspiration of the greatest bard of the country was directed against it, and he sang against it in noble strains in the first and only visit that the lamented Moore made to America. [Applause.] He could not understand, great soul that he was, he could not understand how a people professing liberty and freedom, enjoying it for themselves, and stand by, and, by statute, by custom, by habit, by daily observation, see children produced as beasts are for sale in the market, sold from the public block to the highest bidder. He could not not understand it. [Cheers.] And, O, think of that people following the Casserlys and turning their backs to the O'Connells and the Moores! [Applause.] A base, degraded, bleared sheet, pretending to be a Catholic organ, yclept the *Monitor*, says I have no right to talk to Irishmen. Well, fellow-citizens, it never has been my habit to classify society anywhere. [Applause.] If Irishmen who take the obligations of citizens upon themselves in this great republic are not by that and in that made Americans, they are the basest creatures that ever saw the light. [Vociferous and long continued applause.] If they desire, or their instincts teach them, to look back to their native land, to bring in review to their minds the places where they played, the brooks by which they strayed, the churches in which they assembled, the fireside that they adorned, perhaps—they may do all that; yet beyond that and above it, it is a high, a glorious privilege to each of them to be ennobled by being made an American citizen. [Applause.] A great American who, having seen much of his country, some years ago, perhaps a quarter of a century now, traveled extensively in Europe; his position in society gave him access to the highest circles on the continent of Europe; he was received at the courts, and by the statesmen, and by the divines of those countries he visited. I allude to the now venerable and distinguished Orville Elwell—Rev. Or-

ville Elwell—now residing at the capital, and now a sound and true Union man. [Cheers.] On his return, he wrote what he saw, and I remember a simple passage in his book. It was entitled, I think the book was, "The Old World and the New." He said: "I have been in the halls of enthroned monarchs, but I was proud that I was an American citizen." [Applause.] Yes, fellow citizens, there was a time when the panopoly of American citizenship spread as broad and ample a shield over a citizen of the republic, as Roman citizenship ever spread over a son of the Eternal City. There came a time again, under the administration of one James Buchanan, when the ministers of the republic taught abroad that there was an end of American citizenship and of the great republic. There is a time now, when all the manhood, all the nobility, all the courage, cemented and made invincible by right and patriotism, nerves the soul to say that the republic shall be glorious again. [Applause.]

Every subterfuge that meanness could suggest, that cowardice could invent, that treason, dark and foul, could spawn forth, has been exercised to discover excuses and reasons for opposing this war. First they were against coercion. There was no power to make war upon a State. You could not maintain the Union by force. The simple proposition that the Government could only live among any people by two simple principles—by the love the people bear for it or the fear that it imparts to objectors—was denied. They would have us understand that that simple proposition was not true and well understood, and that when any contemptible fragment of the Nation saw fit to rise up in opposition and rebellion, we had but to ground our arms and become, as I said before, the sport of the world. To that end when we began to employ negroes as laborers in building fortifications, they protested that it must not be done. It prevented, they said, poor white men from getting employment. Oh, what a prostitution of the instincts of generosity! Next, they should not be employed as soldiers. That passed away, and then they must not be paid as other soldiers were paid. Next they were opposed to the draft. Then that particular portion of the draft law called and known as the three hundred dollar clause was against the poor man, they said, and they were opposed to it on that account. Well, in Congress we proposed to repeal that clause, and every Copperhead in the Senate voted against the repeal. [Laughter and cheers.] Why? Because they were opposed to the raising of soldiers. That was it. They fomented and invented every species of opposition against this war, and now they are for peace.

Now, fellow-citizens, for one moment let me give you a glance, or glance yourselves, at the class of men in this State, in your midst, who are for peace. Just think of those Knights that are now traveling on the mountain roads, putting pistols at the head of every traveler and demanding his money or his life—think of the men who went around through this State for ten years or more, like traveling arsenals, bestrung with deadly weapons, and drawing them upon their superiors, destroying our noblest men and putting them to death, establishing a bloody and terrible code which made, as the lamented Baker said, "the mere trick of the weapon



superior to the noblest cause and the truest courage." [Applause.] Just think of those men crying "Peace!" Just think of their becoming missionaries of peace and apostles of civilization! [Cheers and laughter.] If they would only now perform one office I don't know but I would forgive them a great many sins of the past. If they would, in their wretched agony, as their power has passed away, and as their ordinary means of filching a living from the community illegitimately has passed away or is passing away—if they would but turn about and use their arsenals upon the Casserlys, the doughfaces and dirtaters of the North [great applause] I don't know but I would forgive them a part of their former wrongs and misdeeds. They would rid us of the meanest, the most despicable and lecherous crew that ever disgraced our country. [Laughter and cheers.] Why they stand by and see the proxies of the enemies of the country organizing in the Union in a raid against New England—making a plot by which New England is to be set off, the West is to be made another Confederacy, the Middle States another, so that Jeff. may have his way; and as an excuse, too, and pretense for all, Cox of Ohio, known as Sunset Cox, and Casserly agree that the great crime of New England is that her people mix morals with their politics. [Laughter and applause.] They want politics without morals. [Laughter.] Well, they have got it. [Vociferous cheers and laughter.] They have quit their raid on New England. Her granite rocks and her hearts of steel have resisted their deadly and contemptible shafts, and she stands to-day one of the proudest and most peerless parts of the world. [Cheers.] The West, the noble West—her sturdy and stalwart sons have left their fields, have left their shops, and have thundered along the Mississippi and pushed the current into the sea. [Applause.] The great Central States—take Indiana from the West, and the noble Buckeye State and the Keystone of the arch—have recently spoken in the night of the Republic's gloom, and they sing a hymn to liberty. [Cheers.]

But they say the war has been reduced to a contest for the abolition of slavery. O! great God, shall it be said, can it be maintained to-day, eighty years after the organization of this Republic, after eighty years of teaching, first by the fathers and then by every good and great man along the line to the present period, that, to tell the world that we will rise and remove the damning stain is a crime! [Cheers.] Ignorant and untaught men sometimes imagine that if negroes get their freedom, that is, if they have a right to themselves and to the profits of their labor, that they will be encroached upon. Do they not know that they never can be elevated, that they never can rise, that capital has its foot and its heels upon labor as long as such a mill-stone weight as slavery hangs around the neck of labor? [Applause.] If there be one class who, above another, ought to sing peans to the rising star of liberty in the land, it is the men who toil and sweat in daily labor. [Cheers.]

I don't know, fellow-citizens, that I should close this brief and somewhat irregular address without alluding, and I hope that you will pardon me for it, to the little intimations made by some of our papers that the enlightened, honest and patriotic man who

stands at the head of this Government and myself, in my humble capacity, have disagreements. Why, fellow-citizens, I have stood day by day and night by night giving all that I had and all that I could think and feel to build him up and make him stronger. [Immense applause.] How ridiculous now that any man shall be found professing to be a Union man who shall talk about this man or that who reaches a high public station, and has one spark of the light that fits him for it, as thinking of mere groveling conditions, and not giving himself, whatever there is of him, be it little or much, to the great cause of American liberty! [Cheers.] The President with me never sinks the President in the Senator, and it is not necessary for me to say to those who know me that to him the Senator is never, has never been and never will be sunk in the President. [Cheers.] We each, in our sphere, stand by each other through this great conflict. [Cheers.] We stand by you, the great Union people, and you stand by us. [Deafening applause, renewed again and again.] In that, like the Union, I trust and religiously believe, we will be one and indivisible. [Applause.] Otherwise, divide, disagree, or stand by in a false or fancied security, and let these creatures elect the man that they have proposed, and I would not give this piece of paper that I hold in my hand for the great American Republic. [Cheers.] I have passed days and nights, and weeks and months, in agonizing toil and mental sufferings because of the scenes, and acts, and facts transpiring around me. I do not upon every occasion seek to emblazon them all. War has its great horrors. We understand it makes no cause better to constantly present them. Leave that cowardly office to the base traitors who would make capital out of it against their country. We know that many brave men must fall. We know that no such cause as ours was ever won but by the consumption of humanity by the great Moloch. It should be our manly part to realize these principles, and realizing them, allow them to go on with steady tread to the consummation of the great glory. [Cheers.]

From the condition that I have described of our foreign affairs let me say it to you now, for it can be stated publicly—we are now in security and we can state it—from the condition of things not more than two years since, less than that time, when we had not taught the nations of the world that the teachings they had received from traitor Ministers were not true and that the nation would certainly live—from that condition of things our foreign policy has been brought by the wise man who stands at the head of the Department of State [applause], so that we are oftener consulted to-day by foreign nations in their disputes than they consult each other concerning our troubles. [Applause.] And the War Department is presided over by a man of integrity, decision, nerve—a man by whose dexterity and courage and prescience of judgment the mighty armies of the Republic are hurled against the enemy. [Cheers.] I cannot close this address without saying to you, fellow-citizens and Union men of California, when this great battle shall have been fought and the great national victory won, there will be no single man in America entitled to more unqualified praise than Edwin M. Stanton. [Great applause.] And I might speak of the Naval De-

partment in like terms. [Cheers.] We improvised the greatest navy in the world, and are now beginning to sweep the miserable pirate ships of our enemies from the seas. [Applause.] Nay, in addition to that, we are beginning to present an invincible iron front to the nations of the earth. [Cheers.]

We have had a Minister of Finance who has conducted the war up to the maximum of about two thousand millions of debt, without borrowing a dollar from a foreign country. [Applause.] These base, miserable traitors, these cowardly traitors in our midst, who prate about the depression of currency—why, it is a success beyond human contemplation. The world has never seen anything like it. And it was based, by the great man who originated it, upon the faith he had in the patriotism of the American people. [Cheers.] When he wanted to borrow money, he conferred with the bankers in the East, who felt that they hold the big, long, and well filled purse, and that they had a kind of right to lend, as well as the power to loan. And when he negotiated with them about the first thirty million dollars, and found the per centage at which it could be had, he then said: "Gentlemen, that will only last about thirty days; what can we obtain the next fifty millions for?" They looked wild, and very serious, as moneyed men always look [laughter] and they named a figure, although very loth to do it—did not desire to press it. "Now," said he, "gentlemen, that will last thirty or forty days more; what can I obtain the next fifty millions for?" They could not answer. It was an extension of credit by the Government that they had never contemplated, and it was a use to which they had never thought of putting their purses. "Well," said he, "gentlemen, it is apparent to me

that you have not got any credit at all unless the Government has a credit, too. If the people of this Republic do not believe that this Government shall exist, your credit is not worth anything. [Cheers.] If the people of the Republic do believe it, and that it can and will exist, that is the best basis for borrowing in the world." [Cheers.] And it was upon that plain, simple, invincible logic that he based his credit scheme. And what have you got to-day? You have got the securities of your Government—gold-paying bonds—scattered through every loyal State in the Union. [Cheers.] The banks have them. The merchants have them. The mechanics have them. The laboring men have them. And servant-girls have their one-hundred-dollar bonds. [Cheers.] And the credit of the Government is safely lodged in the faith of the people in the perpetuity of the Republic. [Great applause.] But the Copperheads whine. *They* whine! The majority of them in this State never had much money to lend. [Laughter.] To use a trite and common phrase, they had an excellent reputation on the borrow, [renewed laughter,] but they had a very bad reputation on the pay. [Great merriment.] And, Mr. Chairman, and Mr. Mayor, when a man is bad on the pay, it is not any wonder to find him bad on the patriotism. [Applause.]

But, thank God again, the Republic will live. [Applause.] It lives in the hearts, in the minds, in the courage, and in the virtue of the people. [Cheers.] We are told that there is one glory of the sun, and another glory of the stars. Let it be ours, fellow patriots and citizens, that the Republic shall live in glory, represented by the national starry ensign—the signal of hope, the light of the world, and the security of liberty for mankind. [Tremendous applause.]

# SPEECH

OF

*Edward L. Elliott*

## MR. MARSHALL, OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES, MARCH 11, 1852,

IN

### REPLY TO THE SPEECH OF MR. BRECKINRIDGE, OF KENTUCKY.

The House being in the Committee of the Whole on the state of the Union, on the bill to encourage agriculture, manufactures, and other branches of industry, by granting homesteads to actual settlers upon the public domain—and in regard to the Presidency, American progress, and in defense of Judge DOUGLAS—

Mr. MARSHALL said:

Mr. CHAIRMAN: It is not my purpose to-day to discuss the special order in committee, although that is a measure in which I take much interest, and which I believe is of great importance to the country. But, sir, there has been delivered upon the floor of this House, by a distinguished gentleman from Kentucky, [Mr. BRECKINRIDGE,] and a member of the Democratic party, a speech containing sentiments wholly at variance with those I entertain. From the conclusions to which the honorable gentleman has come, I am forced to dissent, and the insinuations as to matters of fact (for the gentleman says he makes no charges or accusations) have been already demonstrated to be unfounded and false. There are many circumstances which compel me to make some response to this speech, though there is no member of this House more unwilling unnecessarily to occupy the time of the House or the committee than I am. No member of this House can more sincerely regret that the debate has taken this course, or that it has arisen at all; no one deprecates more the consequences which may, and probably will, flow from it to the party, than myself. Yet the attack made upon the individual who is, I believe, the favorite of the people, and who I know is the nominee of my constituents for the Presidency, and the attack upon those principles which I regard as the life-blood of American Democracy, and to which my constituency owes its existence, calls imperatively for some reply.

I believe that discussion of this character should not be introduced upon this floor, so long as there is a single great measure of public policy not completed,—so long as there is a single bill which ought to pass not acted upon, so long as there is a single private claim against the Government not adjudicated. I think all discussions of this sort are wrong under existing circumstances; but I do not propose that those who do the wrong shall enjoy all the advantage, and I would rather con-

sume one hour of the time of the committee, than permit a speech containing such political doctrines, or such personal insinuations as that of the gentleman from Kentucky, [Mr. BRECKINRIDGE,] to go forth to the country, even with the negative indorsement of my silence. I regret this debate, because of its probable effect on the Democratic party, and of certain waste of the public time. It was prophesied once (and really that prophecy seems approaching fulfillment) by one of the most learned, acute, and thoughtful of all foreign commentators upon our country and its Constitution, that the very thing which is now happening would happen—that the Congress of the United States would cease to discharge its constitutional functions as the legislative power of the nation, and would become, (what it has not yet become, but what I fear it is approaching,) a mere factious, discordant, ill-balanced, inefficient caucus of presidential electors. But while I deprecate such a result, and deplore even the small share I have in bringing it about, I must insist that all the responsibility rests with those who have induced the necessity for further argument.

The State of California, which I have the honor to represent, in part, upon this floor, is the greatest result of Democratic principles and the perfect illustration of Democratic progress. That State owes its very existence to the doctrines at which the gentleman from Kentucky permits himself to sneer, a doctrine upon which he turns all his sarcasm, but to which he addresses no argument, and against which he has adduced not one clear and manly reason. He did not venture to state the question in any fair or intelligible propositions, nor did he dare to meet the conclusions logically resulting from such a statement. I should not, then, represent my people if I were to permit the very principles to which they owe their political existence to be made the subject-matter for ridicule and scoffing in speeches in the House without reply. But, further than that, there has come up from the people of California one unanimous, universal, spontaneous expression of opinion in favor of Judge DOUGLAS as the Democratic candidate for the Presidency, and I should not represent my people if I were to allow an attack—for the whole speech was an attack—a most subtle, covert,



and formidable attack, in its spirit and tendency throughout—upon Judge DOUGLAS, and the principle upon which his popularity rests, to pass unanswered. I am, for these reasons, forced to respond, at least, so far as a clear and distinct expression of my own views and opinions are concerned.

¶ The nomination of Judge DOUGLAS by the State of California is an event of the highest import, of the greatest significance, and requires from the Democratic party in Congress, and in the nation, a graver consideration, and higher respect, than any other mere State nomination could possibly receive. Look at the population of that country. There is not a State in the Union, not a city, village, or neighborhood, which is not represented there; a nomination, therefore, from such a State is the highest evidence and best criterion of national popularity. No nomination from any other State carries with it the same authority, for upon every other State local interests, State pride, and the thousand indirect influences which control human action, are brought to bear. California is a great national convention, composed of the best material, men proven by the test of emigration to be the best, upon whom no sinister or selfish motive could possibly operate—it is a great unpacked, uninfluenced, disinterested national convention. There was no bargaining for the position of Secretary of State, then, for California knows that except the offices within her own limits, she has no hope of Executive patronage. Being, then, the fullest and fairest national convention, and the best exponent of national sentiment, I claim for her expression of opinion in favor of Judge DOUGLAS—unanimous as it is, so far as it has been expressed, and enthusiastic as I know the feelings of that people to be towards him, from a personal acquaintance with almost every Democrat in the State—I say claim for it before this House and the country, a high authority, infinitely transcending any similar expression of opinion in any other State.

Sir, I shall not lose any portion of my time in reading extracts from the speech of the gentleman from Kentucky, but I shall content myself with a short and simple statement of its general effect, and the purpose it was intended to carry out. And here I desire to say, and to be well understood when I say, that I intend on this floor, as everywhere else, to say exactly what I think, and exactly what I mean, and I hope it will be no anomaly in a politician's life, or in a political speech. I intend to tell what I believe to be the truth—the result of my own observation and experience, and the conclusion of my own reasonings. For what I am saying now nobody is responsible but myself. I express my own opinions. I speak for no section of the Democratic party. But I speak merely what I believe, and upon my own responsibility, to my constituents. Nobody has any connection with or control over me, and I do not intend anybody shall get into any scrape on account of imprudences I may be about to commit. I say this in advance that I may not injure a good cause by injudicious advocacy.

The speech of the gentleman from Kentucky commenced with a thin and transparent affectation of a defense of General Butler! A defense of General Butler! If the gentleman had forbore to attack others of his own party by implication and

inuendo, and had not gone on to rail at and ridicule opinions held by nearly all the intelligent men of the party and the nation, if he had not proceeded to lay down a platform upon which not one fourth of the party could take position, I would have had nothing to say; if, when he had pronounced a panegyric upon General Butler which ranked him with heroes and demi-gods, he had gone no further—if when he had painted with a most accomplished and masterly hand a portrait which all would admire as beautiful, but which no one could recognize—if the subject had been suffered to rest with this eulogy, and the gentleman would have been content to free his friend from all imputations, and leave him raised above all anxiety and almost all human interest or passion, and not proceeded to degrade others, I should have had nothing to say. But he did not stop. His graceful and artistic declamation upon the Democracy and general character and services of that distinguished citizen forms a very small part of his speech, and is well-nigh forgotten in the more striking effects of those offensive portions which give its true intent and genuine spirits. The gentleman takes up two articles which have appeared in the Democratic Review, one of which contains only an abstract discussion on general principles, which he construes into an attack on all the tried and standard men of the party; the other being in fact an assertion of the same principles contained in the first, and an application of those principles to General Butler, demonstrating the unfitness of his nomination to be made by the convention. He proceeds to comment upon these articles, but does not controvert or even state fairly and intelligibly a single principle they contain, or deny, as sound political doctrine, any notion which is contained in the Review. The facts charged he pronounces false, but does not even attempt to prove them so, and contents himself with denouncing the editor of the Review and the whole character of the publication, without measure or moderation.

Mr. BRECKINRIDGE. If the gentleman will allow me for a moment. My friend from California says, that not one fact charged directly, or by implication, against General Butler, or any other candidate in the Review, did I deny. I did not, sir, except in general terms. My time did not suffice to go into detail. I pronounced the statements in the February number untrue. I repeat now the general statement, and I substitute it for a particular denial of every charge.

Mr. MARSHALL. That is but a confirmation of what I have said, and is precisely what I stated the gentleman's position to be. He did not meet the reasoning of the Review, and did not disprove its facts. It is a periodical in which I feel no special interest, except so far as it is a bold and ably edited paper. But in connection with his denunciation of the article, and the editor, he most adroitly, and with the skill of a special pleader, insinuates that Judge DOUGLAS, in whose interest he assumes the Review to be, is responsible for its course. These insinuations—for the gentleman denies having made any charge—have been met and refuted by the gentleman from Illinois, [Mr. RICHARDSON,] but whether the effect has been done away or not, is another question which remains yet to be decided. The gentleman's motive in making that speech is as clear as day-light.

Everybody can see for what purpose it was made. Every one can tell precisely the course of consultation and agreement which that speech carried out. The article to which it pretends to be an answer, attacked the principles of all those candidates whom the gentleman had characterized as the tried and standard men of the Democratic party. It was a doctrinal article—eminently so—which attacked the principles of those who have been denominated, and correctly so, “old fogies.” Yes, sir; and there are lots of “old fogies”—candidates for the Presidency—in the Democratic party. And I am obliged to admit, what I wish to Heaven I could deny, that these “old fogies” have friends—active, energetic friends—drawn to their support by State pride, the patronage of the Presidency, and other influences, and although not particularly strong, individually, yet collectively, they appear formidable. Yet, sir, all these influences are not sufficiently national to give any one a proper prestige for the presidential office. The Democratic candidate for that office must personify the idea of national progress. Yet the gentleman from Kentucky, who, from his instincts and age, ought to be a friend of progress, and sympathise with the great national feeling, and whose enthusiasm would be becoming in this connection, is selected to make this attack, and to carry out the “old fogy” notions.

Mr. BRECKINRIDGE. The gentleman is mistaken in point of fact.

Mr. MARSHALL. Everybody can see how this thing occurred. These “old fogies” are as much at war with one another as they are with Judge Douglas. They considered the attack upon their principles in the Review as fatal to the whole system of “old fogysm” and the claims of all its representatives; and I must be permitted to hope that their apprehensions are founded on good reason. The friends of these candidates saw at once that this attack might be made a bond of union among them, and seeing that Judge Douglas was the second choice of everybody, and the first choice of very many, determined, by a combination, to defeat the most powerful of all the candidates, and to distract and destroy the whole Democratic party; and in the execution of this design, they steal the legitimate thunder of young America for the purpose of breaking down and crushing the hopes of young America. That task could have been more fitly assigned to other hands. There is a gentleman in this House, and high up in this House, a friend of General Butler, an old friend and messmate of General Butler, and an older man, though not an older fogy, than the young gentleman from Kentucky. [Laughter.] What a tribute it is, then, to young America that when there had to be something done, bold, dashing, adroit, and adventurous, and an assault made, intended to be mortal, that the “old fogies” take the back-ground and intrust this attack to a younger gentleman’s hands. None of them will put themselves in view, but put young America forward to make the attack. I say it is a high tribute to young blood and young energy when an old and rotten cause leans upon it for support.

Mr. BRECKINRIDGE. I do not wish to interrupt the gentleman’s strain of eloquence, but I desire simply to say that the gentleman is mistaken when he supposes that my remarks were the result of any arrangement and consultation with the

friends of anybody. I say further that I have not been put forward in this House by anybody, and if I know myself I am not a man to be thrust forward by any who might wish to put me in the breach, and themselves remain in the background.

Mr. MARSHALL. I do not know but it may be in accordance with his inclination and his interest to take this particular position, because if General Butler should by any accident be elected President—and I allude now to motives which operate more or less upon all politicians, except those who come from California, [laughter,] because they cannot get anything, and they know that they have no chance, and do not look to patronage—I say there is nothing more natural than, if General Butler should be President, there being the office, the very respectable and dignified office, of Attorney General of the United States—and that office runs in the family of the young and distinguished representative from Kentucky, [Mr. BRECKINRIDGE,] his grandfather having filled it—I say there is nothing more natural than that such appointment should be made; and when you couple with that, the further consideration that the gentleman is the first Democrat that has ever come from his district to Congress, and that the tenure of his office is said not to be a life tenure, it is not unnatural that he should assume this task. [Laughter.] I have observed with some attention the political life of the honorable young gentleman, and I have examined it with the more care since he has assumed his present position in this presidential contest, and I am sorry that so young a politician should be involved so early in contradictions and embarrassments so manifest. I would rather, upon my honor, undertake to defend the inconsistencies of General Cass, or Mr. Buchanan, than those of that young gentleman.

Mr. PENN. (interrupting.) Will the gentleman allow me to ask a question?

Mr. MARSHALL. Not at this time. I know what the question is, and will give you an appropriate place to put it in directly. There was an exhibition in his native State of one of the most remarkable outbreaks, they tell me, of this principle of progress which the gentleman now opposes and ridicules: one of the most complete and radical reforms, the widest departure from established law and time-honored usage, that has ever been attempted in the United States—a change in the constitution, which the “old fogies” and conservatives of all parties predicted would overturn the constitution of society and reduce it to universal anarchy, so far as the State government is concerned—a movement which, I am free to confess, with all my progressive notions, I thought a dangerous experiment. But it was popular, and among the loudest advocates of it, among the most earnest defenders of its greatest extravagances, was the gentleman himself.

Mr. BRECKINRIDGE. Will the gentleman allow me to interrupt him for a moment? I have been and am in favor of Democratic progress, as accomplished by changes introduced into the State constitutions and also in the General Government, within the limits and according to the spirit of the compact. I was in favor of the new constitution of Kentucky, which popularizes the institutions of that State. My remarks on progress were wholly incidental, and were directed to that sort of progress which the tone and spirit of the Democratic



Review indicated as proper to be carried out through the Federal Government. I did not believe the federal compact, under our limited system of government, could be used for any such purpose. It is limited, it is fixed, and in my opinion the theory and limitations of our federal system sprang perfect from the Convention at Philadelphia like Pallas from the head of Jove. The distinction I take is broad and striking. The Federal Government is not formed on the notion of a pure democracy, nor even of a simple representative system. Hence, though in favor of an elective judiciary for Kentucky, I would oppose the application of that principle to the Federal judiciary. I cannot now enlarge, but I consider the opposite view as tending directly and fatally to consolidation. These remarks apply to the new ideas of federal progress. They do not touch the question of the extension of our country. I was in favor of the annexation of Texas, the Mexican war, and the acquisitions that grew out of it.

Mr. MARSHALL. I desire to ask the gentleman from Kentucky a question in this connection. It is rumored, and the rumor, if false, ought to be contradicted—I am not prepared with evidence to prove the fact, but merely suggest the question—it is rumored here that there was a large and influential Taylor meeting held in 1848, about three months before the convention met for the nomination of the Democratic candidates, and it is said that at that meeting a young gentleman of Kentucky did pronounce the most transcendent and glowing eulogy, did give to the country some of the most immortal eloquence in advocacy of General Taylor's claims, that has ever been heard in that notoriously eloquent State of Kentucky. Mr. BRECKINRIDGE was said to be the gentleman.

Mr. BRECKINRIDGE. If the gentleman—

Mr. MARSHALL. Oh, I can't give you time to defend yourself, it would take all of my hour, and more hours than I ever mean to consume upon this floor, to defend yourself from that charge. I want to know if the charge is true: did you make a Taylor speech at a Taylor meeting?

Mr. BRECKINRIDGE, (rising.) The gentleman is too fair a man to make a charge and not allow me an opportunity to reply. I will answer the question, though I do not admire the taste that prompts it. For several days I have been the object of various attacks—friendly attacks however. The gentleman from Illinois [Mr. RICHARDSON] began them, and the gentleman from California follows him. I understand it was contemplated, by one or two persons, to prove, if possible, that I was a Whig at one time of my life. It is not true. The error springs from the fact that the republican principles skipped one generation in the family. Part of them deflected from the right line. [Laughter.] I never was myself a Whig.

Mr. RICHARDSON. I never believed the gentleman to be a Whig.

Mr. BRECKINRIDGE. I did not say my friend from Illinois had so charged. Indeed, I know he did not. In reference to the Taylor demonstration, the meeting to which the gentleman from California refers, took place in the summer of 1847. Soon after General Taylor won his battles upon the Rio Grande, and soon after the editor of the "Cincinnati Signal" had written him a letter, in which he took Democratic ground in reference to

the bank, tariff, internal improvements, and other questions, and when General Taylor had answered that letter, indorsing all those positions, (and mark it, this was his first political letter,) there was a meeting held in Lexington, (in which I participated,) which recommended him to the people for the Presidency. The best Democrats in the country also took part in that meeting—indeed, I think they composed the majority in it. Afterwards, when other principles were avowed, and when he was taken up by the Whig party and received the nomination of the Whig convention, I was found upon the right side. If there was an error committed, which I deny in the then state of facts, why, then, I say in the language of a distinguished Democrat, who was also in that meeting, "that it was the only political error of my life." [Laughter.]

Mr. MARSHALL. The explanation is about as good a one as could be made under the circumstances, but I appeal to all the Democrats of this House, and throughout the country, if that gentleman does not exhibit conclusive evidence that in party tactics he should follow, and not lead; that before the action of the Convention has regulated his judgment, he is the most unsafe adviser in the selection of candidates that could possibly be consulted. [Laughter.] Does he not come, with an admission of the kind which he has just made, admirably recommended to the Democracy of this country as one of its leaders—particularly as one of its advisers upon so delicate and momentous a question as that which he has undertaken to decide.

Mr. BRECKINRIDGE. I have given no advice about the Presidency, and I challenge the gentleman to point out the place where I have done so.

Mr. MARSHALL. I said in the opening remarks which I made, that I should not quote literally from the gentleman's speech—that I should not respond to the words of that speech—that it was to its vital spirit, its design, malignant towards an individual, and ruinous to the party and the country, that I should oppose truth, candor, and reason. The gentleman is very adroit, the speech was well considered, well weighed, modest, and unpretending, no dictation to the party was apparent in its language, but its effect was to unite all the candidates against that one known to be most popular—to diffuse suspicion and distrust throughout the Democracy of the Union, and to elevate General Butler, who had not a living chance otherwise, into the second choice—the compromise candidate of the convention. Whatever ulterior views the gentleman might have, that was the tendency, and, I believe, the intention of the speech; and it is to defeat that intention, to counteract that effort, that I address the committee to-day. And I will now ask the gentleman from Louisiana, [Mr. PENN.] who has been so anxious to catchise me, a single question. I ask him, as a known friend of Mr. Buchanan—and I hope that the friends of other candidates will not hesitate to answer, as if the same question were addressed to them, for it is addressed generally—I ask the gentleman from Louisiana, if he did not hold consultations with the gentleman from Kentucky [Mr. BRECKINRIDGE] upon the speech referred to?

Mr. PENN. I had a consultation with Mr.



BRECKINRIDGE upon the manner in which he was to defend his friend General Butler, but nothing in relation to Mr. Buchanan.

Mr. BRECKINRIDGE. I trust I may be allowed to ask the gentleman a question. I ask the gentleman from Louisiana to say whether, in any casual conversation he may have had with me before I made my speech, there was any intimation on the part of either of us, that my speech was intended to be either an assault upon anybody, or a combination of other candidates against one?

Mr. PENN. There was nothing of the kind.

Mr. BRECKINRIDGE. That is all.

Mr. MARSHALL. Well, I have had the fortune—

Mr. PENN. Will the gentleman allow me to ask him a question?

Mr. MARSHALL. Not now. I will answer the question after awhile, voluntarily. I am going to take up the point it involves, though it is a very unimportant one; but I will say in advance, that I never sought to injure Mr. Buchanan, because I really do not think he is in the race. [Laughter.] If any part of the Democratic party were trying (in the language of Mr. BRECKINRIDGE) "to fight out of trouble by attempting to mount up on the prostrate bodies of all the best men in the party," in such a conflict Mr. Buchanan would escape, as not being worth the killing. [Laughter.]

Mr. PENN. If you talk of old fogies, I want to ask, if you did not, with the Whig papers, attack Mr. Buchanan; if you did not furnish the article against Mr. Buchanan which appeared in the Republic of last Monday?

Mr. MARSHALL. Yes, sir; I did just that thing. [Laughter.] I had in my possession—

Mr. PENN. You admit that you called upon the Whigs to assist you?

Mr. MARSHALL. I wish I had more copies of it, for in the present juncture it is likely to be a useful document. [Laughter.] I had a Democratic paper in my possession, known to be the organ of General Cass in Pennsylvania, a paper which I knew had been franked, broadcast all over the country, by a Pennsylvania Democrat from the other end of this Capitol, who lived in Pennsylvania, and who was, consequently, a better judge of the propriety of its circulation than I could be. This Democratic paper contained a number of charges against Mr. Buchanan, a catalogue abundantly long enough to have occupied any stump speaker in answering, the two hours that any crowd would listen. Mr. Buchanan's public life has been a long one; there were many curious passages, particularly scattered along the early part of it. [Laughter.] It was a Democratic paper, and I have every reason to presume, was circulated with the approbation of General Cass—at least, I have as much reason to think so, as you have to presume that Mr. Douglas was connected with the Review; under these circumstances, I felt that I had a perfect right to circulate that document. But I had a more capricious reason, more influential with me than any other. The Republic had taken the trouble to collect and collate the various attacks made by the various organs of the various Democratic candidates for the Presidency upon each other. This document was wanting to complete the record, and to make a perfect exhibition of the state into which the party had got itself; [laughter]

ter;] and so I put it on record. I did not want to hurt Mr. Buchanan. I had no malice against him. I have none now, but I desired to be able to show, that the sensitiveness of the friends of the "old foggy" candidate for the Presidency took no alarm from newspaper attacks, till the reply to a newspaper article gave them the opportunity to unite for the destruction of that individual who was the most formidable to them all. I do not believe that the paper republished at my instance, will ever do Mr. Buchanan any harm. The charges it contains have all been before the country for years; the effect of them has been, and I trust will continue to be, that it is not a nominee of the Democratic party for the Presidency against whom they are urged; that is what I hope.

As I intended to say when I was interrupted, it is impossible for any man to prove positively a charge like that which I have brought against these gentlemen—of combining their interests to crush their strongest opponent. It rests simply upon probability. It is natural. The gentleman from Kentucky has achieved that result. The friends of all the "old foggy" party are now distributing, in unexampled numbers, the speech, which every man who reads it knows is the most formidable attack that could be made upon Judge Douglas. The gentleman from Louisiana, I will venture to say, is a large subscriber, and has franked this document right and left, not because it is a vindication of Butler, but for its attack upon the man who is recognized and feared as the natural nominee of the Democratic Convention. That is what gave to the speech of the gentleman from Kentucky its value. I do not know what other gentlemen may think, and, as I said before, no man is committed to my own views; but it appears to me as if the battle had now to be fought between the sections of the party upon principle; that we can scarcely avoid an open, but, I hope, a fair war between young America, with its progressive doctrines, and "Old Fogysm," and beaten candidates with Retrogression as their motto. It is possible that I may be deceived by the spirit and temper of the country from which I come; but I do not believe the result can be doubtful. I do not apprehend disaster or defeat in such a conflict; and I, for one, am willing to make and meet the issue. It is barely possible that some one of the representatives of a former age may be nominated—perhaps the favorite of the gentleman from Kentucky. I say nothing here now, nor do I propose ever to say anything which may make it inconsistent in me to follow a banner with either of the names inscribed upon it, which we followed once before to signal and glorious—*defeat*! If it be raised again with the additional inscription extracted from the gentleman's speech, and containing its whole spirit in two words—"Retrogression, Anti-Progress"—some of the Democracy (and I among them) will follow even those colors, but it will be with muffled drums, by the left flank, in *great confusion*, and to the melancholy wail of the dead march.

It was my design, but it is one which I shall not have time to execute under this unfortunate one hour rule, to have examined, carefully and thoughtfully, the sneering insinuations of the gentleman in regard to this doctrine of progress, and to explain and defend the true Democratic doctrine. Every one who heard that speech knows,

and all who read it will find, that there is in it no statement of the gentleman's conception of progress. He says—and makes it ludicrous by the art of the rhetorician, combined with stage trick and great knowledge of stage effect—that we want “to hunt up some imaginary genius, and place him on a new policy, give him young America as a fulcrum, and let him turn the world upside down.” Now, I cannot reason with a proposition like that. I have never consulted with Judge DOUGLAS as to what his opinion is on the relative position of the two sides of the world, but I have no doubt but he is perfectly sound upon that question. [Laughter.] And from a somewhat careful examination of his political writings, and a good deal of conversation with him upon general topics, I am clearly of opinion that he has no intention to disturb the equilibrium of the physical universe. [Laughter.] But he does cherish an idea, however, that the United States are not now absolutely finished, and ready to be enclosed and painted. [Laughter.] He has looked back, and looking carefully and thoughtfully over the history of the human race, he has found no system of law, or condition of society, perfect; there has never been any political system in which there was not room for improvement. This is a conclusion to which, I think, all thoughtful minds will come, which every serious and contemplative student of history must approve. He thinks that the United States, great as they are, rich as they are, powerful as they are, and free as they are, may become yet freer, richer, more powerful, and more extended than they are, with perfect safety, and under the Constitution. He thinks that the rank of this Government in the scale of nations may be elevated. He thinks, and the progressive Democracy maintain, that it is possible to hold a more influential position among the peoples of the world than it now does. This is a hasty and imperfect sketch of his opinions of progress; and with his eye steadily fixed upon the Constitution, as that of the mariner on the compass, he would steer for each worthy object that will promote the prosperity, develop the resources, sustain the power, and augment the glory of the whole Union. Those are his opinions of progress; and they are mine. This is nothing like turning the world upside down; we seek no innovation upon the Constitution; but we seek to progress under the Constitution, and with the Constitution. The whole history of the United States is a history of progress—physical, geographical progress—intellectual, moral, civil, social, and political progress. The internal idea, the abstract notion of better things, the hope of freedom, the determination to resist oppression, all that active principle which makes a great country and a great people, have wrought without ceasing in the American mind. Would gentlemen who are afraid of progress stop this? Would gentlemen arrest it? Do gentlemen desire or believe it possible to check the free current of thought? This is not metaphysics or nonsense. It is a fact, which every man who looks back for a moment to the philosophy of the history of the country, must recognize and subscribe to. The gentleman, in the defense of a rotten conservatism, seeks authority in the epitaphs of our honored ancestors; but the inscriptions are in a character unknown to him. He reads them falsely. He does not take the magnificent and inspiring lessons

which those grave-yards teach to the careful and disinterested inquirer. There is no sermon on progress so eloquent as to stand and reflect, earnestly and honestly, by the side of the grave of the Father of his Country. And in these irritable times, I would recommend to politicians an occasional visit to Mount Vernon, to soothe their excited feelings, and calm them for the grave consideration of principles. We learn from the history of the fathers of this country, and most of all from the life of him who was the most illustrious of all, that progress is the duty of every citizen. Did *they* not progress? Look at their movements. The grandest, the most august Revolution that any mortal man, or any set of men, ever undertook, they accomplished. But their views were necessarily limited. They did enough for one generation, and more than any generation before, or since, have ever accomplished; but did not do all. They left much undone. What was their mission? What was the evil they were called to remedy? The eyes of the men of the Revolution were directed towards Europe. They had no jealousy but upon one subject, and that was, European interference. They sought the independence of these States, and they sought little else. To make their own laws, and impose their own taxes, and regulate their domestic affairs, according to laws enacted by representatives they themselves would choose—that was as far as *they* went, and as far as *they* could be expected to go. But the condition of the country at the successful conclusion of the war of the Revolution was as wholly different, and the then policy and opinions of men were as clearly distinguishable from those now entertained, as ours are from the policy and opinions of the Chinese.

The territory of the Union was narrow; limited by the Mississippi upon the one side, by Louisiana upon another, by the Lakes and by the Atlantic. Why, it was scarcely larger than a pre-emption claim, in these days of expanded liberality on the subject of public lands. It was a narrow tract. They aimed to give it dignity by peopling it with brave and free men. They thought of it only as a small star, a bright spot upon the surface of that continent, which neither their ambition or policy embraced. They never dreamed of the vast and glorious constellation which was to glitter around it; their policy consequently could not be the same as ours. Progress was the very condition of the existence of the next generation. There were found conservative gentlemen in that day who opposed the first step of progress after the revolutionary war was closed, who were afraid the world was going to be turned upside down by every reform. When the debates arose upon the purchase of Louisiana—and we all know with what heat those debates were carried on—there was no want of politicians to declare it unconstitutional, and a violation of the principle and doctrines of our revolutionary ancestors. The most radical Democrat of that day, the author and founder of progressive Democracy, doubted if under the Constitution any territory could be added to the Union. The same sort of appeals and arguments were made then as now. Every reform, every advance which the nation has made, has been opposed by the same conservatism which would now paralyze the national energy. There is nobody now who questions the propriety of



the purchase of that territory, or the annexation of that more important territory, which has been acquired since. The policy has vindicated itself in its triumphant experience.

But there is another sort of progress, to which I have before alluded, and the idea of which I would wish to develop, because it constitutes a great national characteristic. There is another sort of progress. What I have adverted to and illustrated, is mere physical and geographical advancement. I have, as yet, only spoken of the acquisition of territory. I allude now to that progress which has enlarged and liberated the American mind since the days of the great patriots of the Revolution, constituting in itself a revolution as important as that which liberated the colonies from British oppression. There has been going on in the human mind and the human heart, through all that series of years, revolutions, each and all of them of vast importance. There rushes upon the mind and memory of every man a thousand illustrations of what I mean. It was good old Democratic doctrine—a conservative and safe doctrine—that the highest power in this country, the power upon which men's lives, property, and reputation depended, should hold its unapproachable and inaccessible position within the inner temple; that the judiciary, unlike the legislative or any other power in the country, should be irresponsible to that people from whom their power was legitimately derived; that they should not be elected by the people. An elective judiciary? Such a heresy in the days of the Revolution would have raised an outcry from all our assembled revolutionary ancestors. Nearly all the States in the Union have made this change in their constitutions. It has resulted from a gradual but constant pressure of public opinion, which was irresistible.

There are other illustrations; one more striking than this. There was a law which existed in every one of the old thirteen States, and many others—a law which was approved by our revolutionary fathers, and acted upon by them; a law which took away all discrimination or distinction between guilt and misfortune; a law which incarcerated the debtor in the same prison with the felon; which placed the man, from whom accident may have taken a fortune, or who had incurred obligations which Providence may have made it impossible to meet, upon a level with the thief; a law which gave into the hands of a single individual in this country the power, by process of law, to imprison and disfranchise a fellow citizen, guilty of no crime, and to make the victim, by the oppressor's own act, incapable for life of ever escaping from this thralldom—the power to separate husband and wife, the father from his family, to spread desolation and ruin through those homes which, in all civilized society, should be sacred. The law I allude to is imprisonment for debt; a law which public opinion would not now tolerate in any State in the Union. These illustrations exhibit the extent and direction of the progress of the American mind. There is another illustration of the same principle. In the revolutionary times, and long after, in nearly all of the States of the Union, to be a free white citizen gave none of the privileges of a citizen. Property was made the basis of the elective franchise—a property qualification. It was so universally, at one time. Would

that be tolerated now? Will any conservative gentleman say that that principle of our venerated revolutionary fathers can be taken up, and defended before the people now? Does the gentleman fear to get rid of a principle like that?—one which deprived half the people of some of the States of any interest in the Government? Why, sir, practical experience and a moment's consideration show, that to do away with that was a safe experiment. Look at the achievements—the glorious achievements of our volunteer forces in the war with Mexico. Scarcely one of those volunteers would have been a voter under the old revolutionary principle.

Mr. BRECKINRIDGE. Will the gentleman allow me to say a word?

Mr. MARSHALL. My time is nearly out, and I cannot let you say a word. [Laughter.] Would our army have been furnished with such soldiers if it had not been that each shoulder that sustained a musket consciously sustained, at the same time, the fabric of the Government at home? Each man felt that he was fighting for and in defense of the Government he had aided to construct, and in which he had a part.

Well now, the progress of which this is an illustration, is the kind that Young America contends for. You cannot put down what is natural and ought to exist; and whatever abuses ought to be overthrown will be overthrown; because when once the human mind is awakened—when once men begin to think upon subjects like this, you might as well attempt to control the human conscience, which leads us to God himself, as that other motive principle, which leads us to liberty! Men will work out for themselves a more perfect system. It is a spirit more active, more real than gentlemen generally choose to think. It is one which must be appealed to in all political contests. It is one which we were beaten for not consulting once before. We must find a candidate who is a national man. In the language of this Review—and most of the ideas of it I indorse to the fullest extent—in the language of this Review, the Democratic nomination *must mean something*. It must be a man who is able to create national sympathy—who can understand the people, and can make the people understand him. A man whose history, character, mind, position, and opinions are all popular, must be selected, or we will inevitably, in my opinion, be beaten; and we shall deserve to be beaten when we have got such a man in our ranks and do not select him. There is no character with which I have become acquainted in American politics that has such strong points of sympathy for the people as that of Judge DOUGLAS. I am not here for the purpose of pronouncing a eulogium on him, though I should like to do that very much, if I had time; but I shall not stop to do more than just to point out the elements of success in a popular contest which this man has about him. He was a poor boy, sprung from the midst of the people—a mechanic, passing the earlier years of his life in the best training that is possible to discipline the character and make a man popular, fashioning his conceptions of utility and art from the materials of nature—a dignified way of saying that a man was a cabinet-maker. [Laughter.] He was the best cabinet-maker, as he has been the best at everything he has undertaken. He took a medal for it, and that medal



should be hung round his neck alongside of that California watch which he received for his eminent services to that State in the agitation of the compromise measures; and the two would reflect glory upon each other. I should hold that medal, if it were mine, given to me as the best cabinet-maker, a prouder mark of honor and a higher distinction than any cross which ever glittered on the breast of a soldier. I reckon the triumphs of peace as far more glorious than those of war. A little later, we find him a lawyer, and the best lawyer, the most successful, and having the best business. Progressing safely and regularly, by dint of force and merit, we see the poor cabinet-maker passing through the experiences of a barrister and taking his place on the district bench of his State. The best of the judges on that bench, he was promoted to a higher judicial tribunal. Singular and uninterrupted success has crowned his whole life. The distracted and disorganized Democracy of his own State, knowing his power, called him from the bench to complete its organization. He did complete it, and there is not now a Democracy in all the States of the Union—unless it be that of California—that is more united than the Democracy of the State

of his adoption. Taking his place upon this floor, who won more laurels? Who was more distinguished here? No man in this House. Steady to this principle of safe and regular progress, notice the other step in his career. As he had passed from a barrister to a judge, and from an inferior to a more important tribunal, he passed from this House to the other branch of Congress, where he has seen more triumphs than any man of his age had ever done before, or than any man has done in that House since he has had a seat there.

And now, having scarcely reached the middle of a protracted life, he stands the most prominent, as I believe he is the most meritorious, of all the candidates of the Democratic party for the Presidency of the United States. Take this man as I have described him—and described without exaggeration—raise the flag for him inscribed with these opinions and doctrines, spread them over the country, and I give you my word that there will spring up in the American heart, from one end of this continent to the other, an enthusiasm which will make his election and our success absolutely certain.

[Here the Chairman's hammer fell.]

## SPEECH

OF

*Section*

HON. E. C. MARSHALL, OF CALIFORNIA,

IN THE

HOUSE OF REPRESENTATIVES, JANUARY 6, 1853,

*In the Committee of the Whole on the state of the Union, on the conduct of the present Administration in regard to Cuba, and our Foreign policy generally.*

Mr. MARSHALL said:

Mr. CHAIRMAN: I had not wished or intended to claim the attention of the committee to the remarks I propose to make to-day. I had intended, and still intend (unless the duty is discharged by some one who can bring before the House the authority of a greater name) to offer a resolution to this effect: That the Committee on Ways and Means be directed to report a bill placing at the disposal of the President of the United States the sum of five or ten millions of money in the Treasury, and not otherwise appropriated, to meet any exigencies which may arise before the meeting of the next Congress in our foreign relations. I wished to have presented some such resolution in the House, not only that it might give rise to discussion of matters of a practical and important bearing on the interests of the country, but that such discussion might be followed by some action on the part of this House which would have significance before the people. I had hoped, and still hope, that a vote of the House, giving unequivocal expression of opinion upon practical questions will be taken, and I entertain the fullest confidence that that vote will have the happiest effect at home and abroad. The expression here in committee of abstract opinions on questions which may never arise, and which certainly will only arise in the remote future, is no part of my purpose to-day.

There are affairs now pending in regard to which the action of the Executive, so far as any action has been had, has been, as I think, and as I shall endeavor to prove, ruinous to the interests and fatal to the honor of the nation. Fortunately, our foreign policy may yet be changed, or rather, a foreign policy may be established consistently with the faith of treaties and all our obligations, while the public interests are protected and the national honor redeemed. The resolution which I propose to introduce will announce to the incoming Administration our perfect confidence in it, as the popular vote in the late election has done on the part of the people themselves. It is offered not as a war measure, but simply implies that a change of policy is desired, and that the Executive will have the support, the earnest and effectual support of Congress. A vote of confidence of this character is not without precedent in our history; and it is also established firmly in the Government from which many of our usages and laws are derived. I shall urge this measure upon the Democratic

party as a peace measure, and one which strikes me as the most important upon which we shall have to act, in its effects upon our national character and national interests. The subject of our foreign relations has been introduced by gentlemen in committee, and questions have been debated which, although not identical with those which I think render necessary the vote of confidence of which I have spoken, are yet cognate questions; and as the points to which I attach the greatest importance have been almost neglected and doctrines inculcated of the worst influence upon the State which I represent, in part, I have determined to give my own views of those questions at this time, although I think the subject would have come up with more propriety and effect upon a resolution before the House. I shall call the attention of the committee to the diplomacy of this Government in the Island of Hayti and the Republic of Nicaragua, because there we have incurred the deepest shame and sustained the greatest loss, and because these evils are not without easy remedy; and for the further reason that the State which I represent in part has a special and local interest in the policy of the Government as regards the Gulf of Mexico, its islands and shores.

It is true, as a general principle, that in a Confederacy like ours, the more remote members are, and ought to be, more jealous of the honor, and more sensitive to every indication of weakness of the Union, than those nearer the political and geographical center. *Civis sum Americanus* is uttered with more pride on the shores of the Pacific than the Potomac.

We lean upon the General Government for support; and nowhere within the ample boundaries of the Union does there exist the same sentiment of confiding dependence that we feel. At the same time there are none of the States which have felt with such poignant shame the sacrifice of honor and principle, and the deep humiliation, brought on us as a people by the present Administration.

We believe, we know, that there is strength enough in the Government, under a manly and patriotic Administration, to protect all its parts in all their rights. The eagle's wing is strong enough to bear its flight over the continent, and its beak and talons sharp enough to guard its charge, even though the lion of England should array himself against it in his acknowledged power.

The interest so universally felt in the subject of

inter-oceanic communication, and much of that felt in regard to the islands and shores of the Gulf of Mexico, has arisen since, and depends on the acquisition of California. Commercial necessity forces us to transmit, monthly, nearly three millions of specie through an independent republic, and under the very guns of fortresses which have only to hold us in the contempt we have merited to become hostile; and the inestimable rights of every kind of our citizens are exposed through the same causes, and to the same dangers. I feel obliged, therefore, even on occasions not peculiarly appropriate, even when the effort will not be productive of immediate action, to assert the doctrines I hold, and to expose the imbecility and corruption, from which even now we are suffering. The Island of Cuba, and the possibility and probability of its annexation to the Union, and the policy of the Administration toward the Government on which it is dependent, have produced much debate. The danger of collision between Spain and ourselves seems to me to have passed for the present, and, right or wrong, the questions between us are settled. I do not think that in good faith the next Administration can, or that it will, assert any claim or principle likely to renew the late difficulties, or to change materially our relations with Spain or Cuba. I cannot see that any immediate necessity exists for a change in our policy, or that any practical question is likely to arise. Neither the next Administration, nor the present generation, will be called on to act in regard to it, and I am willing to leave it to the wisdom and courage and patriotism of those who will, by the course of events, and in the fullness of time, have to meet it. I cannot but allude to one significant fact, of which I have seen no explanation, which goes to prove that the Administration is by no means confident of the propriety of its course in the most exciting and threatening of the Cuban difficulties. The American Consul in Havana, who had pursued precisely the course consistent with the expressed views and instructions of the Government, who carried out with a tameness and cowardice, which should have made him Secretary of State, the will of the Executive, was by that very Executive dismissed with dishonor, and given over to the execrations of the whole unanimous people, without one word of explanation or defense.

The gentleman from North Carolina, [Mr. VENABLE,] who introduced this discussion, did not confine himself to an examination of the policy of the Administration in respect to Cuba, but went on to the assertion of general principles, which I was surprised to hear from him, and in which I by no means concur. That gentleman also indulged himself in a general reprobation of the doctrines of progress, and the plans of filibusters, and seemed to intimate a belief that some political party, or section of a party, were desirous of lawless conquest, and in favor of predatory incursions upon neighboring Powers, especially if those Powers were weaker than ourselves. Now, sir, let me say in behalf of Young America, and the progressives, with whose opinions I sympathize, that we desire to do no one thing which is not consistent with the sound principles of public law, and the rights of all our neighbors. That we do not desire war for conquest, or any purpose; that we regard it as the greatest evil, except dishonor. And further, that we advocate no measure of foreign policy which ought, or which we believe will, lead to war. We contend for no new doctrine;

we merely insist upon the strict observance of principles well established by authority, and necessary for our own peace and safety. I shall, in another connection, state the doctrines to which I allude, while I now consider some of the leading propositions of the gentleman, [Mr. VENABLE,] which I believe constitute a faith common to the gentleman and the more conservative portion of the Whig party.

If I understood the gentleman, he was opposed to the annexation of Cuba at any time, and in any way, on the ground that the Union could not with safety embrace any additional territory. I will also state what I believe is the real operative reason of the objection of that gentleman. It is a conviction, now nearly universal, that the progress of slavery in American territory is arrested. That in all future acquisitions, from the operation of many active causes, the institution of slavery will not exist. It is clear that whatever the reason assigned, the ground of opposition to the acquisition of a country so manifestly advantageous to the South as Cuba would be, either as a free or slave State, is jealousy of the North.

Mr. Chairman, the time is past when the question of slavery in any territory about to be acquired, can produce the agitation and danger which has arisen from it. The principle is settled by the compromise, that the citizens of such territory, at the time, shall determine for themselves this question; and if the North should, by its greater energy and aptitude for emigration, acquire the popular power, and the right under the rule so settled by the compromise, to declare any territory seeking admission into the Union, free, the South could not, if it would, under the Constitution and laws, and would not if it could, resist a measure beneficial to the whole nation. The South should be satisfied with the guarantees of the Constitution and the laws, for their peculiar institution; and even if it be receding, if the conditions of human society, and the progress of free States militate against it; if with the protection thrown round it by the organic law of the land, it be yet in its own nature temporary and evanescent, and about to disappear before the democratic energies and the laws of political economy, there is neither the wisdom of a statesman, nor the generous patriotism of a good citizen, in seeking to impede the advance, and check the development of States where no such institution obtains.

I believe myself, and I speak only for myself, that there will be no more slave territory annexed to the United States. The history of the country, and especially of California, establishes the fact, and illustrates the principle which governs the case. Look at California. If slavery could ever progress, it would have obtained there. Slavery is only advantageous to the slaveholder in countries where the largest amount of labor can be bestowed on the smallest surface, and where it pays the heaviest profit. Now, sir, since man first left the Garden of Eden, there has been no place discovered where these conditions are so wonderfully met, as in California—and yet I tell gentlemen that there never was a time when slavery could have been introduced there, nor is such a time coming. We approved the compromise; but the character of our State was fixed without it. Labor was imposed as a curse, (and it is awful in my private opinion,) and free citizens will not submit to have it made dishonorable, as well as disagreeable, by slave competition. Free men will be the first emigrants, and they have, and will protect their aris-



*tocracy of labor* from the action of organized capital, in the shape of slavery.

But as regards the proposition now beginning to be urged in the most unexpected quarter, that any extension of territory is dangerous to the Union, I shall say only a few words. The directly opposite proposition would seem true upon its mere statement—certainly every addition of territory, voluntarily connecting itself with an existing government, increases the physical force and resources of every kind, at the disposition of the constituted authorities of the whole.

It is true that a pure democracy can only exist within narrow territorial limits, and with a very small population, for the obvious reason that where the people assemble and pass laws directly, that only a very few can meet or act in concert. Our own observation and experience proves that such democracy should consist of fewer citizens than compose this House, if prompt and efficient legislation is the thing desired. But that difficulty, which is as old as the formation of society, was obviated by the system of responsible representatives of the people themselves. The other objection, that a legislature assembled from vast distances, could not wisely provide for the local wants of regions remote, and to the great majority of its component members, wholly unknown, has been met only conclusively in the history of the world by our own system, partly national and partly federal. The establishment of the doctrine of State rights, as a security for efficient local legislation, and a Federal Legislature, Executive, and Judiciary, for the arrangement of foreign relations and of domestic affairs, throwing its guardian arm over all, is perfect in theory and in practice. It appears to give the only absolute security against the prevalence of dangerous faction, by placing always, in the hands of the National Government, the force of more than half of the Confederacy; and against foreign invasion it is a self-evident security—and these internal factions and foreign wars exclude all the perils which can menace a nation. I confess that I can see only one limit to the safe extension of territory, and that is in a distance so great that the constituent citizens would be unable to hold the representative to the rigid responsibility which is the basis of the whole system.

Such a Government seems to me to grow stronger with each accession of territory, and like a well-constructed arch, to acquire greater firmness from increased pressure and accumulated weight. But suppose the worst did happen, from the annexation of Cuba, or any other province—suppose the worst to have come—that the parts could no longer hold together, but must dissolve: what then? I say, still, that the experiment is worth trying, and that good would result even from the temporary union. We would have introduced new ideas; we would have taught the lesson of self-government, of resistance to oppression, of freedom, of the equality of men in the eye of the law, of the dignity of the individual, without which teachings, man had better not be.

We would have made converts to the faith of human liberty, and given their true value to a nation; and whether we continued to exist in one Union, or broke into fifty free republics, the world would be improved by the diffusion of that knowledge, which alone makes life tolerable. The great Union so broken, would be like a fractured diamond, less valuable certainly in its fragmentary state, but still the same precious material, reflect-

ing from each brilliant part the light of American civilization, intelligence, and liberty.

No one can have less sympathy than myself with the wild excesses into which doctrines liberal, but at the same time safe and prudent, have been sometimes carried. I would by no means defend the vagaries of Anacharsis Clootz, or such sects as he represented. I mean to be never the advocate of wild and self-sacrificing propagandism; but I prefer it much, in its worst form, to the extreme of conservatism—that conservatism which would, in terror and suspicion, withdraw from all foreign intercourse into Japanese solitude; that conservatism which, in dread of entangling alliances, would refuse to declare a principle of public law, or in the maintenance of strict neutrality neglect to defend its citizens, plundered by both belligerents; that conservatism which instructs the representatives of a great Republic to avoid in monarchical courts the expression of the sentiment of the country they represent, or the inculcation abroad of the free principles which alone give value to government; that conservatism which has already made our own diplomatic corps mere evidences of the power, mere trappings and circumstances to swell the pomp and flatter the insolence of those potentates to whom their very presence should be a solemn warning; that conservatism which dares not interpose in friendly mediation between its own neighbors, without calling in the crowned heads of Europe to destroy its influence, and laugh at its folly. Liberal opinions and bold policy may run into inconsiderate rashness; but prudent conservatism may also degenerate into cowardly imbecility. The notions of an hundred years past are not necessarily or generally suitable or safe at this date.

The conservatism of the present day is a mere eddy in the rushing and resistless tide of human development and progress. The position of our continent, its mere geographical position, makes impossible the policy of conservatism. Placed between the civilization of the Orientals, which the maturity of despotism has well-nigh destroyed, and the nations of Europe still fresh and vigorous even under the curse of monarchical and aristocratic institutions, commercial necessity, like the attraction of gravitation, forces contact with both. Commerce must have its agents, must be protected. Representatives of the Government, with political character higher than the mere consul, and hedged round by the sacred *jus postliminii*, introduce the very atmosphere of the republic to the court of the monarch—opinions are diffused, sympathies are created, interests spring up, which may be affected by the terms of treaties to which we are not parties; wars and pacifications, transfers of territories by which our rights and privileges may be sacrificed, so blended become the interests of commercial nations that an injury to one is an injury to the other. The United States must either adopt a Japanese seclusion, or she will be forced into entangling alliances, and will become the involuntary propagandist of the hideous principle of republican liberty. Conservatism is impossible: we must go backward or forward. We must decline into worse than colonial feebleness, or we must accomplish a mission of world-wide beneficence. Fogyism itself would look hopefully forward from one of our California promontories, around which break, unchecked in their wild play for six thousand miles, the giant waves of the Pacific ocean. (Plenipotentiaries from China offering unrestricted intercourse)—Fogyism itself would become a convert to progress, and fancy

the very continent a vast ship voyaging triumphantly into that future, which opens bright but boundless around humanity.

I have said, Mr. Chairman, that the subject to which I should ask the attention of the committee, was of a practical character. In the investigation of the policy of the Administration in the Island of Hayti, I shall attempt to prove that the doctrine of Mr. Monroe, and the principles of national law, and the dictates of humanity, and the impulses of universal manhood, that all the settled and necessary rules of conduct peculiar to the United States, as between it and the Powers of Europe, in the adjustment of the affairs of this continent, and the instruction and all-pervading sense of dignity and personal consequence which regulates the deportment of man to man, have been openly and absurdly violated. That the rights and interests of the United States, the rights and interests of a sister Republic, have been continually and wantonly sacrificed. These are strong terms, but I shall endeavor to establish the title of the Administration to yet stronger epithets. And here, sir, in advance of the argument, and assuming, for a moment, what I propose to prove, I must express my astonishment and mortification at the course of the central Democratic journal, (The Union,) in regard to this affair. This journal, which should be the organ of the party—which should exert an immense influence in the formation of public opinion—which should gather, with patient labor, correct information for general diffusion; this paper which should be a vigilant sentinel over the doings of the Administration, has selected this disgraceful negotiation for its approbation. The Union has exhibited the last degree of ignorance and thoughtlessness in its article upon this subject, and has not only failed to throw any light upon it, but has not even reflected truly the conclusions or reasoning of even the most careless observers of passing events. We want beyond everything a party organ which shall be conducted, not as a commercial speculation, not solely or principally with a view to pecuniary advantage, but a periodical which shall be the jealous guardian of the rights of the people and the honor of the nation; which shall speak with the boldness of conscious knowledge on all subjects of public importance. Upon this question of Hayti, the Republic copies the article of the Union as *being perfectly in accordance with the views of the Administration*. Did not the Union know, had its editor never heard, that the Democratic party, so far as it had expressed, by the press or otherwise, its opinions on this point, had visited, with the deepest reprobation, the course of the Administration?—but the article itself contains (what every one in the country knows, and nothing more) enough to convict itself of absurdity, and the Executive of weakness and disregard of one of the fundamental principles of American policy. It says:

"In general, the foreign policy of President Fillmore's administration has not been in accordance with our notion of what the foreign policy of this country should be, and we have been constrained in some instances to express an emphatic disapprobation of negotiations which seemed to us to compromise the dignity and to surrender the rights of the United States. For this reason, any instances of an energetic or wise administration of the foreign affairs of the country by an Executive whose general policy we have been constrained to condemn, will the more readily command our warmest commendation. Such an instance of wise diplomacy do we regard the efforts of this Government, in conjunction with Great Britain and France, to arrest the sanguinary designs of the negro Emperor of Hayti against the republic of Dominica.

"By some means, publicity has been given to the correspondence between the State Department and Mr. Robert M. Walsh, its agent in the negotiation for the pacification of Hayti. In the various papers which constitute this correspondence, the motives and purposes of the Administration in proffering its good offices in behalf of the Dominican republic, are frankly and clearly set forth.

"In 1821, the Spanish portion of the Island of St. Domingo voluntarily subjected itself to the government of Hayti, then presided over by Boyer. On the expulsion of Boyer, and on account of the wrongs and grievances which they had endured, with a repetition of which they were menaced, the Dominicans threw off the subjection of negro government and established an independent republic. To this step the Spanish inhabitants of St. Domingo were driven by the necessity of self-preservation. Not only were their political rights and their liberty invaded and trampled upon by the black barbarians of Hayti, but the doom of indiscriminate slaughter and extermination was incessantly held before them in the threats of the Macaya and Dessalines.

"By the most imperious necessity, then, were the Dominicans impelled to set up an independent government. Nevertheless, their act of separation was regarded as a revolt by the negroes of Hayti, who prepared to reduce the rebel whites to subjection by the strong arm of force. All the efforts of the Haytian government were unequal, however, to the reconquest of Dominica. The Spaniards defended themselves with valor and energy, and, despite the disparity of numbers, successfully repelled the invasions of their foes. They achieved and established their independence. France formally recognized the republic of Dominica. England and the United States recognized it by their acts. Still Souloque refused to acknowledge the independence of the Dominicans, and persisted in his efforts to reduce them to subjection. In this juncture, under the apprehension of a very formidable attack by Souloque, the Dominican government solicited the mediation of the United States, Great Britain, and France, to restore, if possible, peaceable relations with its savage neighbors. Great Britain and France promptly acceded to the proposition, impelled thereto by every consideration of justice and humanity. Without reluctance, the United States followed their example. The Government dispatched Mr. Walsh to the Haytian court, to cooperate with the representatives of Great Britain and France in the humane endeavor to persuade the Emperor Souloque to abandon his hostile designs against the Dominicans.

"Persuasion could not appease his ferocious wrath, nor could threats drive him from his bloody purposes. He persisted in his designs against Dominica, and would in no manner acknowledge its independence. The utmost the mediating Powers could effect was the prolongation of an existing truce.

"And this was the issue of a negotiation for which the Administration deserves credit. It originated in an impulse of humanity, and sought to protect a civilized community from the oppression and ferocity of a blood-thirsty savage. The mission of Mr. Walsh was a mission of peace and true philanthropy."

Even in the imperfect history of the Island of Hayti here given, it is clear that the Dominicans were entitled to their independence in the judgment both of the Union and the Administration; that being so entitled, and in fact being independent, they invited the United States to protect them against a savage whose power was originally founded on murder, and continued and sustained by lawless outrage. The Union indorses this paragraph from the instructions of Mr. Webster to Mr. Walsh, the agent who conducted the negotiation:

"You will then, conjointly with your colleagues, require the Emperor to conclude a permanent peace with the Dominican government upon the basis which you may jointly prescribe to him, or to consent to a truce with that government of not less than ten years.

"The Emperor should be made properly aware of the dangers which he and his country may encounter, if he should be unfortunately advised to reject reasonable terms of pacification; but you will stop at remonstrance until further notice."

Now, if this means anything, it means that the United States assert a right to intervene forcibly, if necessary, in the affairs of the island, and that that intervention has been made in a way that calls for "the warmest commendations" from the Union. Those warmest commendations are bestowed upon the total failure "to appease his



(Soulouque's) ferocious wrath," or "drive him from his bloody purpose." If the Union desired to defend or explain this contemptible failure, it would have been generous to the Administration; but to bestow the warmest commendations upon it for permitting a bloody savage—not acknowledged by the very Administration itself as one of the recognized Powers of the earth—to mock and defy it, while he does the very thing about which the issue has been made, is self-evident nonsense. This is the plain statement: The United States says to Soulouque, You shall not make war on the republic of Dominica; Soulouque says, I will make war on the republic of Dominica; and the United States don't say anything more—but the Union says, it is "an energetic and wise administration of the foreign affairs of the country."

Oh, shade of *Dogberry*! rejoice, that at length thy profound teachings are appreciated by a Whig Administration and a Democratic editor:

"*Dogberry*. You shall comprehend all vagrom men; you are to bid any man—Stand, in the prince's name.

"*Watchman*. How if he will not stand?

"*Dogberry*. Why then, take no note of him, but let him go; and presently call the rest of the watch together, and thank God you are rid of a knave."

But, sir, the Union seems wholly unconscious that the Administration has not been content to render itself simply ridiculous, and contemptible; but that to do so effectually, it has violated a principle, the very clearest and least liable to dispute in our entire foreign policy. I allude to the doctrine of Monroe. The Union makes itself responsible for the joint mediation of France and England, accepted by the Administration in direct and apparently intentional, gratuitous, and wanton violation of the policy which is essential alike to our safety and our honor. In another connection, I will state the doctrine, and what I conceive to be its meaning and effect; but for the present purpose, I would only direct the attention of the Union to the National Intelligencer of December 23d, where "non-interference on the part of European Powers with the independent Governments of the New World," is stated as an admitted principle of all parties—apparently in the same happy oblivion of the course of the Administration in this and other transactions, as the Union.

But leaving the *Democratic organ* to the consolation to be derived from the sympathy of the Republic, I will examine the course of the Administration in regard to Hayti, by the light of its own official correspondence, and other reliable sources of information. The momentous importance of this island to the United States in a commercial point of view, and its still greater importance as a naval dépôt, has been strangely overlooked. I do not speak of the policy of its annexation, nor do I contemplate its acquisition by the United States; nor do I believe that the course of the next Administration ought to be or will be shaped with any such purpose; but this I do say is obvious from a single glance, that its independence of Europe is of more moment to us than that of Cuba; and that the protection of the white republic, which embraces two thirds of its surface, against the negro empire which holds and ruins while it holds the other third, is at once our duty and our interest, and that such interference should be without the coöperation of any European Power; but that in that island, more than elsewhere, the interference of Europe, whether as joint mediators, or in any other way, should be effectually prevented. The dependence of Cuba

on Spain is the cause of the embarrassments and difficulties which have sprung up in that direction. Hayti has for nearly thirty years been wholly independent of all European power. The island contains about thirty thousand square miles. Of this area, about one third of its western end is in possession of Soulouque, and the remaining two thirds constitute the territory of the republic of Dominica. It is blessed with a climate the most delightful, and a soil the most productive; it lies to the windward of Cuba, and holds it, in fact, a mere prisoner in its hands if in the possession of any naval or military power. By its geographical position, it is the true key to the Gulf of Mexico, and to both oceans the natural Queen of the Antilles. It has upon its northeast side a bay called Samaná, perhaps the finest in the world, and which is said at this time to be occupied by France; a bay of which a French political writer of eminence speaks in these words:

"There are three points in the Atlantic which assure the maritime preponderance to the great power which shall establish itself on either one of them—the little Island of St. Thomas, the Mole of St. Nicholas, (in Hayti,) and the Bay of Samaná. St. Thomas, at present the entrepôt and maritime center of that part of the world, is nothing but a barren rock, to which everything—even wood and water—has to be brought from abroad; and besides, it belongs to Denmark. The Mole of St. Nicholas is surrounded and commanded by a compact circuit of high mountains, which circumstance requires the military occupation of a very extensive territory; it belongs, moreover, to the Haytiens. There remains Samaná. Of all the bays in the world, the Bay of Samaná is at once the most vast, the most secure, and the best defended on the side of the land and of the sea; while all the riches of the mineral and vegetable kingdoms—from gold to coal, from ship-timber to precious shrubs—are found accumulated in the peninsula which gives it its name."

\* \* \* \* \*  
 "Where, then, shall we search for the secret of the hesitation, which nothing without or within can excuse? Is it in the strange illusion of one of our last Ministers of Foreign Affairs, who, in reply to one that was representing to him the danger of the occupation of Samaná by the United States, said: 'Fortunately the English are yet in Jamaica;' so, too, were the English in Oregon?" \* \* \* \* \*  
 "No, it lies, I fear, in the traditional maxim of the bureau: 'It is none of our business.' None of our business! Happy, indeed, is that country which can act on such maxims! But are we in that condition? When England is each day enlarging the distance which the year 1848 placed between her and us," \* \* \* \* \*  
 "when the United States are covering the Atlantic and Pacific with their annexationist *Corsairs*; do we not, by remaining asleep in our little corner, incur the risk of awaking some fine day, stifled and powerless? Our lethargy is here all the less inexcusable, inasmuch as there are no political or financial obstacles for an excuse; that in order to see our flag float over the Peninsula of Samaná, we should not have even the trouble of carrying it thither; [quere?] that, in order to conquer the finest maritime and territorial position of the New World, the *tête de pont* of the passage of Panama, the future entrepôt of the two hemispheres, the key of the two oceans, would only require of us a simple monosyllable and a single nod of the head. But why say this aloud? Some one will object to me. Good God! to make known here what all the world, except ourselves, knows already."

These considerations no wise people will overlook. It is true, that at present, while the resources of both divisions of the island are exhausted by wars and preparations for wars against each other, the commerce of the island seems comparatively unimportant. The exports of the Dominican republic are about one million annually, and Hayti about three millions; the population of Dominica being about one hundred and twenty-five thousand, of which only fifteen thousand are pure blacks, thirty thousand whites, and the balance blancs, or mixed, and Hayti about seven hundred thousand. This commerce has been declining, as has the actual produce of the island, steadily since its occupation by the French, in



1787, 1788, and 1789. In those years, the exports from Hayti alone, one third of the island—and with a population, all told, of five hundred and thirty-five thousand—was \$8,783,000; the consequence is, that Dominica, which has a soil equally productive, and twice as extensive, would, if she were suffered to, equal the condition of Hayti under the French in 1787, 1788, and 1789, sustain a population of more than a million, and export over fifty millions. This is an estimate infinitely lower than the facts justify, but it is sufficient to show that the interest of the United States consists with its duty; that all the motives, pecuniary advantage, security for our trade in the Gulf, and the dictates of humanity, should impel us to the effectual protection of the Dominicans.

But no motive of interest would be sufficient to direct national policy as against the public sentiment of civilized and enlightened nations or the plain dictates of morality and justice.

Has the United States a right to interfere? The Administration has not only settled that question as against itself by an actual interference, but it has published satisfactory reasons for its intervention. In addition to the instructions given to Mr. Walsh, quoted before, the following extract from a letter addressed by the representatives of the three Powers, Great Britain, France, and the United States, to the Haytian Minister of Foreign Relations, expresses the views of the Administration, and takes the true ground:

"In the eyes of the three Powers, the independence of the Dominicans reposes upon a right as sacred, a fundamental compact as respectable, a fact as consummate, as those which secure the independence of Hayti itself. In their eyes, that people is in legitimate possession of all the titles which constitute nationalities the most incontestable; a regular administration, a legislation protecting equally the persons and property of all, a military organization both on land and sea, a flag enjoying the honors due to that of a free country, international relations through accredited agents, and even a solemn treaty of recognition and commerce with one of the chief nations of the earth."

And from the same document:

"Reduced to the alternative of renouncing those advantages, or of perpetually fighting to retain them, the Dominicans have been compelled to request the intervention of the Powers with whom they are connected by the aforesaid international relations, in order to free themselves from a position so deplorable.

"That intervention they justly obtained, because a few words inserted in the often-modified constitution of Hayti, are by no means sufficient to create for that country a right of perpetual possession of the territory of its neighbor—a possession entirely fictitious at the time when that constitution was formed, continuing so during eighteen subsequent years, and again becoming so after the lapse of seven, and of which the temporary existence only demonstrated the radical impossibility of blending two races of different origin, customs, manners, and language."

And again:

"The only thing for foreign nations to consider was the simple fact that the Republic of St. Domingo is positively independent, and entitled to be treated as such, whatever may have been the original rights or pretensions of Hayti."

Nothing could be more distinct and satisfactory than this. Upon the same subject, and to show to the Department at home the propriety and necessity of intervention, Mr. Walsh writes to Mr. Webster in these words—this is official:

"The contrast between the picture which is now presented by this country, and that which it exhibited when under the dominion of the French, affords a melancholy confirmation of what I have said. It was then indeed an 'exulting and abounding' land—a land literally flowing with milk and honey; now, it might be affirmed, without extravagance, that where it is not an arid and desolate waste, it is flooded with the waters of bitterness, or covered with noisome and poisonous weeds. 'When I arrived here,' to quote the words of an intelligent foreigner who has been in Hayti since the epoch of its independence,

'there was abundance of everything—now there is a want of everything.' The cultivation of sugar, which was once the main fountain of wealth, is now entirely abandoned, except for the production of an intoxicating drink; and that of coffee has so much decreased, that it would not in the least be a matter of surprise if ere long the supply of that indispensable article for Haytian commerce, were to be insufficient for the ordinary consumption of the inhabitants themselves.

"The government, in spite of its constitutional forms, is a despotism of the most ignorant, corrupt, and vicious description, with a military establishment so enormous that, while it absorbs the largest portion of the revenue for its support, it dries up the very sources of national prosperity, by depriving the fields of their necessary laborers to fill the town with pestilential hordes of depraved and irreclaimable idlers."

And in further proof of the strong position taken by Mr. Walsh, with the approbation of the Department, witness this extract from an official letter:

"I thought I might then try the effect of an argument which I took care to represent as wholly unofficial and private, my Government having no knowledge of it whatever. The day before I left Norfolk I was told by a friend that he had been offered a command in an expedition which was contemplated to go to St. Domingo and assist its inhabitants against the Haytians. This fact I communicated to the Minister with all plausible emphasis, dwelling upon the perilous probability that should such an expedition ever land upon the island, all the miseries and horrors with which the Emperor was now threatening the Dominicans would be brought to his own door; that the desperadoes composing it would never rest until they had exhausted every effort to overwhelm the empire, and that even if they should fail in destroying it, the evils they would suffer would be almost equivalent to ruin. The only sure way, I added, to arrest the danger was to conclude a peace, and by thus depriving the expedition of the lawful motive of lending aid to a people whose independence was wrongfully assailed, it would become the duty of the United States to prevent it from leaving their shores.

"The chord was one which seemed to vibrate more strongly than any other, for the Government has been in great dread of such an expedition ever since the attack upon Cuba."

And again, from Mr. Walsh, as to the right to menace or use force:

"The truth is, the big ship in the harbor is not a pleasant spectacle to his eyes, and the sending such a one just now, is a ceremony of which he would much prefer the breach to the observance. It is a pity the commodore cannot protract his stay here, as the presence of the steamer would materially assist our negotiations, the logic of force being, I am afraid, the only kind which his government thoroughly comprehends, or at least is disposed to respect."

But as to the views of the Department of State of the national character of Hayti and the government of Souloque, the following to Mr. Walsh, from Mr. Webster, is conclusive:

"It is presumed, however, that in process of time—and perhaps before long—if the Haytian government shall abandon its ambitious projects of foreign conquest, shall devote its attention to the improvement of its own people, and shall succeed in that object, so as to command the respect of dispassionate and impartial men, no nation whose interests may dictate the measure will hesitate to send consuls to their ports or to recognize Haytian consuls in their ports."

Could anything be clearer? The Government itself asserts the right to coerce the Haytian outlaw, and refuses to recognize the absurd and monstrous empire as one of the Powers of the earth, entitled to the respect or countenance of the civilized world. One other extract from Mr. Walsh's report, and the diplomatic history of this affair, as furnished by the Government, is finished. In it is confessed the failure of the whole mission, and the only honorable and manly course indicated. It has been, however, wholly disregarded:

"That result can only be accomplished by coercing the Haytian government. All persuasion and argument are thrown away upon it, all sense of duty and justice and right is merged by it in sanguinary ambition and ferocious vindictiveness. The Dominicans will listen to no terms

which do not establish their national sovereignty, which they have so long and so successfully defended.

"They would prefer total extermination, as they declare and as their conduct demonstrates, to falling again under the atrocious despotism which they have shaken off; and every consideration of interest, of justice, of humanity demands that their independence should be placed on a secure and permanent basis."

I will, however, Mr. Chairman, take a more comprehensive view of this question. Has the United States a right to intervene for the protection of Dominica against Souloque? The facts and principles which are necessary to prove this right, are often identical, and always connected with those which establish the obligation of the Government to forbid, and at any hazard to prevent, the interference of any European Power, especially France or England, in the affair.

The conclusion as to the policy of the Government, which has contemptibly failed in the assertion of the right, and which has, without any justification or necessity, or any good result, in fact violated the obligation, is inevitable. Before going into these facts, before giving a brief account of the relations of the Island of Hayti to Europe and to ourselves, and its different parts to each other, and of the submission by this Government to the interference of France and England, it is well to recur to and carry with us distinctly the rule of foreign policy, and its reasons, which is called the Monroe doctrine. In the seventh message of Mr. Monroe, this clear and luminous exposition of the doctrine occurs:

"It was stated at the commencement of the last session that a great effort was then making in Spain and Portugal to improve the condition of the people of those countries, and that it appeared to be conducted with extraordinary moderation. It need scarcely be remarked that the result has been, so far, very different from what was then anticipated. Of events in that quarter of the globe, with which we have so much intercourse, and from which we derive our origin, we have always been anxious and interested spectators. The citizens of the United States cherish sentiments the most friendly in favor of the liberty and happiness of their fellow men on that side of the Atlantic. In the wars of the European Powers, in matters relating to themselves, we have never taken any part, nor does it comport with our policy so to do. It is only when our rights are invaded or seriously menaced, that we resent injuries or make preparation for our defense. With the movements in this hemisphere we are of necessity more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the allied Powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective Governments. And to the defense of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted. We owe it, therefore, to candor, and to the amicable relations existing between the United States and those Powers, to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies and dependencies of any European Power we have not interfered and shall not interfere. But with the governments who have declared their independence and maintained it, and whose independence we have, on great considerations and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by a European Power in any other light than as the manifestation of an unfriendly disposition towards the United States. In the war between those new governments and Spain, we declared our neutrality at the time of their recognition, and to this we have adhered, and shall continue to adhere, provided no change shall occur, which, in the judgment of the competent authorities of this Government, shall make a corresponding change, on the part of the United States, indispensable to their security.

"The late events in Spain and Portugal show that Europe is still unsettled. Of this important fact no stronger proof can be adduced than that the allied Powers should have thought it proper, on any principle satisfactory to themselves, to have interposed by force in the internal concerns of Spain.

To what extent such interposition may be carried, on the same principle, is a question in which all independent Powers whose Governments differ from theirs are interested; even those most remote, and surely none more so than the United States. Our policy in regard to Europe, which was adopted at an early stage of the wars which have so long agitated that quarter of the globe, nevertheless remains the same, which is, not to interfere in the internal concerns of any of its Powers; to consider the Government *de facto* as the legitimate Government for us; to cultivate friendly relations with it, and to preserve those relations by a frank, firm, and manly policy; meeting, in all instances, the just claims of every Power; submitting to injuries from none. But, in regard to those continents, circumstances are eminently and conspicuously different. It is impossible that the allied Powers should extend their political system to any portion of either continent without endangering our peace and happiness; nor can any one believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition, in any form, with indifference. If we look to the comparative strength and resources of Spain and those new governments, and their distance from each other, it must be obvious that she can never subdue them. It is still the true policy of the United States to leave the parties to themselves, in the hope that other Powers will pursue the same course."

In the subsequent or eighth annual message of the same President, (Mr. Monroe,) he again alluded to the contest between Spain and her colonies; said that the latter had fully achieved their independence, and that said independence had been recognized by the United States. He then adverted to the European Powers; said that it was "the interest of the United States to preserve the most friendly relations with them, but that with regard to our neighbors, the republics of South America, our situation was different. It was impossible for the European Governments to interfere in their concerns without affecting us." Indeed, the motive which might induce such interference would appear to be equally applicable to us; and he added that "it was gratifying to know that some of the Powers with whom we enjoyed a very friendly intercourse, and to whom these views had been communicated, had appeared to acquiesce in them."

In this statement it will be observed that all intervention between the Governments of this hemisphere by the Powers of Europe, for whatever purpose, whether "*oppressing them or controlling in any other manner their destiny*," is declared to be "*the manifestation of an unfriendly disposition towards the United States*." The purpose for which the intervention might be made does not change the dangerous and hostile character of the act; and the reason is obvious, and our late experience gives it additional force. If once they are permitted to interfere, protectorates, and consequent acquisitions and fortifications of strong points, for the effectual protection of such wards, would render the State so protected and occupied, the mere creature and victim of the stronger power, and would lead by a thousand pretexts which everybody but Mr. Fillmore can see at once, to the introduction of the European system into the continent, which is inconsistent with our safety. How dangerous every infraction of this principle is, may be seen by the late overtures for a tripartite treaty, which would have bound us in all time from the acquisition of Cuba, and which has even awakened the Executive. This offer, so promptly rejected, was, however, a corollary, a necessary consequence of the tripartite mediation in Hayti, and the admission in Honduras, and along the Mosquito coast, of the claims of England.

The offer on the part of France and England to make a treaty stipulating for the eternal separation of Cuba from the United States does not equal in



insolence either of the two encroachments which we have not only submitted to but invited. To what depth of degradation—to what sacrifice of pride, honor, and power—to what extreme of humiliating subserviency to Europe we would have insensibly gone, I forbear to conjecture. We have gone far enough, however, to prove that the only safety is in the rigid observance of the Monroe doctrine which is contained in one line: Non-interference on the part of European Powers with the independent governments of the New World. That this doctrine should have been enforced with jealous precision against France and England in the Island of Hayti by the United States is made more apparent by the fact that each of these Powers has guarded against interference by the other, and that the United States alone has been indifferent to the progress of either in the island. The joint mediation met the views of both those Powers, as it gave to them a controlling majority in any negotiations which might be entered into. And that there could have existed no adequate motive for accepting or tolerating the joint interference of those Powers is demonstrated by the fact, that that connection with us did not influence Soulouque in any degree, but that the joint mediation was as ludicrously impotent as our sole attempt could by possibility have been.

By the treaty of Ryswick, 1697, Spain ceded to France the western one third of the Island of San Domingo, retaining the eastern two thirds. The black population of the western or French portion of the island in 1790 massacred the whites, and became independent of France. The blacks of the east or Spanish division did not join in this rebellion. In the same year the Spanish part of the island was ceded by Spain to France, and remained in her possession till 1808, when the English aided the Creoles to throw off the control of France, and the territory was confirmed to Spain in 1815 by the treaty of Paris, and was governed as a Spanish province till 1821. In 1822, Dominica, with a view to connect herself with the Colombian republic, revolted from Spain. This purpose was never carried into effect; but Spain was unable to attempt even its subjugation, and has never to this day re-asserted her claim. On the contrary, she has openly acknowledged their independence by demanding, in 1830, from Hayti an indemnity for its loss, and also by receiving and treating with the Dominican commissioner in 1847 for the acknowledgment of the republic then established in the east.

In February, 1822, Boyer, the chief of the west or negro part of the island, the now Empire of Hayti, invaded the east with a force which was irresistible by the Dominicans. The provisional authorities were compelled to submit, and the territory was incorporated with the Haytian republic. It is not necessary to my present purpose to recount all the atrocities practiced by Boyer on the Dominicans. It is enough that his administration was so intolerable, not only to the Dominicans, but to the Haytians, that he was driven from power and from the country in the year 1843. Riviere, who overthrew and succeeded Boyer, was more ferocious toward the Dominicans than his predecessor. It is true that Dominica sent her representative to the convention held at Port au Prince, in 1843, to remodel the constitution. In the first business before the convention, the difficulty arose which led to the establishment of a separate republic in Dominica. This was the basis on which the union (if any union was to be

between the west and the east) should be established. The Dominican delegates insisted, as a fundamental provision, upon the protection and encouragement of white immigration. It was refused by the Haytian representatives. Upon this the Dominicans declared themselves independent of Hayti, in a manifesto published 16th of January, 1844. In the war which immediately followed, the Dominicans beat the Haytians in several actions, and have maintained themselves in this independence ever since. In November, 1844, the constitution, modeled after our own, was proclaimed.

The two successors of Riviere—Guerrier and Riché—made no serious attempt against Dominica. But Soulouque who succeeded, has exhausted every means in his power to annoy or to reconquer the country, and has publicly declared his intention to exterminate the whites from the island. Shortly after the establishment of the Dominican republic, commissioners were sent to this place to ask its recognition. Had they not a right to ask it? No claim to sovereignty had been advanced by any European Power for more than twenty years. They had, driven by a tyranny unexampled, thrown off the connection, forced in the first place with Hayti, and were in fact and of right independent. The leading ground of difference between them and Hayti, white immigration, should have commanded our sympathies; and the doom of extermination pronounced against them, gave them a right to protection on the grounds of common humanity. On the arrival of these commissioners, Mr. Calhoun was in the Department of State. The large and comprehensive mind of that great statesman, appreciated at once the importance of the interests involved, and he sent out a special agent to examine carefully and report on the affairs of the island. Before the report was made, or at least before it was acted on, Mr. Calhoun retired from the Department of State. Mr. Buchanan, who succeeded Mr. Calhoun, sent another special agent, Lieutenant Porter, who made a long, and I think, an able report, which was never acted upon, owing to the excitement and absorbing interest of the Mexican war, which was just then being commenced, and the events which followed it. This is, however, but an imperfect excuse for a most serious fault.

In 1849, just at the accession of General Taylor, Soulouque made the most formidable attack upon Dominica which it had sustained. He reached within two days' march of Santo Domingo city, and with a force apparently irresistible. The indifference and neglect of the United States had extinguished all hope of interposition on our part, and in despair the Dominicans applied for a French protectorate. This would have been accepted by France at once, and the Bay of Samaná (a point of more importance than Havana, and which, it is rumored, she has at last taken possession of) ceded to her—the island, in fact, would have become her property, but for the interference of the British Minister, who gave notice that Great Britain would not consent to it. The correspondence on this subject, copied from the archives in Santo Domingo, is now in this city, and in possession of the gentleman afterwards sent out by Mr. Clayton as special agent to Dominica. Whether this would have been submitted to or not by the United States, it is impossible to say; but it was by no action on the part of our representative at home or abroad that it was prevented.

After the invasion of Soulouque, which was defeated by the exertions of the Dominicans,



though made more formidable by domestic treason and foreign intrigue, Mr. Clayton, then Secretary of State, sent, as had grown to be a habit, a special agent to Dominica. I have had access to the reports and papers of this gentleman, so far as they could with propriety be communicated. Upon his arrival petitions and addresses from all parts of the Republic came to General Santa Anna and the President of the Republic, urging a retraction of the offers to France and opposing the French connection, and advocating annexation to or protection from the United States. An application was made to the agent, and by him forwarded to the Government here, praying for intervention by the United States for the pacification of the country. This application was forwarded by him along with a report, which set forth additional reasons, of the most conclusive character, why it should be favorably considered, and then, if not before, the authorities here should have become fully aware of the intrigues which both France and England (*the joint mediators*) had kept on foot for the acquisition of some hold in the island, and of the most fatal effect upon our interest. I shall give a short synopsis of the report, and then a short history of the diplomacy of those Powers in Hayti. And I think it must be clear to every mind, that whatever might have been decided as to our own intervention, or the extent and character of it, nothing but criminal carelessness or infatuated and predestinated stupidity could fail to recognize the necessity for excluding France and England from any share in the matter or any the least control over our free action.

The report urges that the duty and interest of the United States was to intervene, for the reasons which I have before given, and which were subsequently assigned as the causes of the joint mediation, and goes on to urge further, that the war was one of extermination and for conquest, and that it involved the very existence of the white race in the island; that the Haytian constitution declared as a first principle "that no white of any nation should place his foot upon the soil with the title of proprietor," and that the Dominicans invited white immigration by grants of land and the privileges of citizenship; that our commerce suffered from the war, and that our citizens were endangered, and our property lawlessly seized by the barbarians of Hayti in the prosecution of the war; that acts of plunder and piracy to the amount of many hundreds of thousands of dollars had been committed against our citizens, as is proven by Mr. Webster's Report, House Doc., 3d Sess. 27th Congress. The report further urged the fact upon our Government, that England and France coveted Samaná, and that the Dominicans would be forced to cede it to one or the other, in consideration of protection which they had vainly sought from us. It was urged that France had never relinquished her designs to recover the island, and that England had always been, and was then, engaged in efforts to acquire the control of the island. The Government was by this report put in the possession of this additional fact—that the Consul General and Minister Plenipotentiary, Sir R. Schomburgh, as soon as he discovered that an application was made for the mediation of the United States, had offered and urged the mediation of England, which was not accepted. The Dominicans did not trust the English Government, but better informed, and consequently more prudent than the United States, feared the known

policy of Great Britain on the great question between the races, and did not believe that she would support them in good faith against the double claim of Souloouque to sympathy—both as negro and as emperor. Dominica had been taught by many years of observation, that it was no part of the policy of Great Britain to support a free white republic on the island, but that her designs were to acquire rights for herself in that territory. The mediation of England was, however, pressed by Schomburgh with such earnestness, that the Dominicans dared no longer refuse it peremptorily, and the American agent was consulted by the authorities on the subject. The Dominicans would not, however, agree to it, unless it was distinctly understood that the United States and France were to be joint mediators, and with the further distinct avowal that the call for joint mediation was in the alternative, and should be made only on condition that the United States refused to intervene alone. This report, and these offers on the part of Dominica, were met by General Taylor's administration, so far as to instruct their agent to give notice to Souloouque that this Government would not view with indifference any aggression on Dominica, at least while Souloouque was indebted to the United States. This notice had the effect to suspend for a time an invasion which Souloouque was preparing in 1850.

Mr. Bulwer now gave notice of the readiness of his Government to enter into the joint mediation, and the Administration replied, that upon the return of their special agent, they would give a definitive answer. The reputation of Mr. Clayton is, however, free from the stain of this disgrace. Nothing was, in fact, done by him. General Taylor died while the affair was pending, and Mr. Webster took charge of the Department of State. It is worth remark, and should be borne in mind, that after the departure of this special agent from Santo Domingo, no treaty being concluded for the safety of Dominica, but everything left as it had always been, and still is, open and unsettled, the agents of France, and also of England, endorsed the propositions of Souloouque to that Republic, and endeavored to induce its authorities to submit to his demands. This is conclusive evidence that neither of those Powers were acting in good faith with us, or Dominica, and, taken in connection with the fact that the mediation wholly and shamefully failed of its purpose, and that the threats of the three greatest Powers of the earth did not alarm a barbarian who was unable to have resisted, for one moment, the attack of either of them—and that those threats were not carried out by either against him, when he met fully the very contingency on which they were uttered—it is monstrous—wholly incredible, on any principle of human action, that the majority of them could have been acting in good faith. This Administration, however, replied to Mr. Bulwer, by the appointment of Mr. Walsh; the joint mediation was entered into. Everything which our interest and duty dictated failed, and the two Powers had the triumph of leaving matters open for their future action, with this incalculable advantage gained, an admission by the United States of the right of European Powers to interfere in the affairs of independent Governments in this hemisphere, and a thorough and well-merited contempt felt for us and our arms and diplomacy in those Governments, which should trust us as implicitly as they should profoundly respect us. I shall leave this branch of the subject, with this extract from the official organ of the Dominican

government. I take it from the New York Herald, February 26th, which translates from the *Gaceta de Gobierno*, of January 25th:

"We were surprised," says the Dominican official organ, "when we read, in the message of the President of the United States to Congress, of the settlement of peace between the Dominican republic and that part of the west called the Haytian empire. This false report, communicated to that Government by an unfaithful person, precisely when Souloque was calling under arms a numerous army at Juana Mendez, in order to invade our territory, is highly alarming, for these falsehoods can affect us in other countries which are friendly to our republic. They wish to divert the attention of other nations from the unrighteous machinations against our independence. For that reason, we positively repeat, that till now the Powers who wished to settle that question, with the desire of avoiding bloodshed in a disastrous war, have not agreed on the affair."

The same spirit which has conducted our negotiations in Hayti has guided our policy in Nicaragua, and to the same or even worse results. The state of things existing at the present moment, produced by the sagacity and courage of this Administration, and the one which immediately preceded, may be stated in a few words. The territorial rights of the republic of Nicaragua are in fact sacrificed by the construction of the treaty made to protect those very rights, and this Administration has become a party to the dismemberment of that republic. The aboriginal tribe of Mosquitos are recognized as having the sovereignty over an indefinite extent of territory which has belonged to Spain since the discovery of the continent, or to the States which have been formed from her colonies. Islands in the Bay of Honduras, which belonged to that republic, have passed, without protest or objection, into the absolute possession of Great Britain, in direct violation of treaty stipulations, and the principle which binds us to the protection from European aggression of all the independent States of this continent. All this has happened, too, in violation of repeated pledges made by this Government. It is not necessary to trace minutely the history of our relations with *Central America*—political Central America—before the year 1848. In that year, the subject of inter-oceanic communication became of vital and immediate importance; and from that time the series of measures which have terminated in the disgrace of the American name began. Much earlier, however, as early as 1825, the subject was agitated, and correspondence was had between the governments of Central America and the United States on the subject, which is instructive. The Minister of that Government wrote to Henry Clay, then Secretary of State, asking the coöperation of the United States in a treaty for the secure establishment of a transit route, and giving the United States preference over other Powers, on the ground that its "*noble conduct* had been a model and protection to all the Americas." Instructions were accordingly given to our *Chargé d'Affaires* to assure the Government of our deep interest in the subject, and to investigate the matter and report upon it. This was not done; but the same efforts were renewed in many instances by Central America, and afterwards by the separate States which had composed it.

I shall pass, however, over all that, and come as hastily as possible to the negotiations which immediately preceded the Clayton and Bulwer treaty, and which are necessary to a full comprehension of the present established policy. In 1847, the republic of Nicaragua, feeling itself endangered by the aggressions of the British, and alarmed at the fatal doctrines asserted by that Government in regard to the rights of the Mosquito kingdom,

appealed to the United States for protection, on these grounds:

"The United States is the natural protector of all the republican States of the continent, the center of the hopes of the American cause. Nicaragua, who derived its first impulses from you, and is animated by your example, doubts not that her representations will be received on a subject which threatens her institutions and independence, and affects the interests of all the American republics."

Mr. Buchanan, to whom this letter was addressed, did not reply to it at all; but subsequently, after the same application was repeated, and the English had actually seized the port of San Juan, he sent out Mr. Hise to negotiate. Mr. Hise did not return till after General Taylor was inaugurated, when he came with a treaty, the leading features of which I shall give by extracting its most important provisions.

The instructions of Mr. Buchanan to Mr. Hise assert in bold and true terms the rights of the United States and the motives of England; and for their most lame and impotent conclusion, I confess myself at a loss to account. I give those clauses which contain the substance and meaning of the whole. He says:

"The object of Great Britain in this seizure is evident from the policy which she has uniformly pursued throughout her history, of seizing upon every valuable commercial point in the world, whenever circumstances have placed it in her power. Her purpose, probably, is to obtain the control of the route for a railroad and canal between the Atlantic and Pacific oceans by way of Lake Nicaragua."

He also insists on the policy "of excluding all interference on the part of European governments in the domestic affairs of the American republics." He asserts the wrong of Britain, and denies their claims, but says, in conclusion, that "the Government of the United States has *not yet* determined what course it will pursue in regard to the encroachments of the British Government." So instructed, Mr. Hise, not perhaps pursuant to instructions, but under the impulse of genuine American feelings, and impressed with the dangerous character of the intrigues of the agents and representatives of Great Britain, particularly at and about San Juan, concluded a convention with Commissioners of Nicaragua, with the following provisions:

1st. That the United States should enjoy the perpetual right of way through the territories of Nicaragua by any means of conveyance then existing, or which thereafter might be devised.

2d. That the United States, or a company chartered by it, might construct a railroad or canal from one ocean to the other, and occupy such lands, and use such natural materials and products of the country as might be necessary for the purpose.

3d. That the United States should have the right to erect such forts on the line or at the extremities of the proposed work as might be deemed necessary or proper for its protection.

4th. That the vessels and citizens of all nations at peace with both contracting Powers might pass freely through the canal.

5th. That a section of land two leagues square at either termination should be set apart to serve as the sites of two free cities under the protection of both Governments, the inhabitants of which should enjoy complete municipal and religious freedom, trial by jury, exemption from all military duty, and from taxation, &c., &c.

In consideration of these privileges the United States were to be bound to defend and protect the territorial rights of Nicaragua, to preserve the peace and neutrality of her coasts, and some other



provisions not relevant to the matter in hand. Before Mr. Hise had concluded this convention the Administration which sent him had gone out, and General Taylor was inaugurated. Mr. Hise was recalled, and Mr. Squier sent in his stead, with instructions from Mr. Clayton, which I shall lay before the committee. This treaty of Mr. Hise, which certainly contains matter worth consideration, was suppressed by the Taylor administration, on the ground that it was completed after the date of his letter of recall, and that it exceeded his instructions. The very truth is, it was suppressed because it took the American ground, and would have brought us by possibility in contact with England, which was then asserting new and most extraordinary propositions. We will see what those propositions were, and how they were met by Mr. Clayton, and by his successor. Mr. Manning, Vice Consul at Nicaragua, writes to Lord Palmerston in April, 1849:

"My opinion, if your lordship will allow me to express it, as regards this country, for the present is, that it will be overrun by American adventurers, and consequently bring on her Majesty's Government disagreeable communications with the United States, which possibly might be avoided by an immediate negotiation with Mr. Castellan for a protectorate and transit favorable to British interests. The welfare of my country, and the desire of its obtaining the control of so desirable a spot in the commercial world, and free it from the competition of so adventurous a race as the North Americans, induce me to address your lordship with such freedom."

And Lord Palmerston, in a letter addressed to all the British agents in Central America, asking information as to the boundaries of the Mosquito kingdom, says: "You will also report what in your opinion is the line of boundary which her Majesty's Government should *insist upon* as absolutely essential for the security and well-being of the Mosquito shore," and without waiting for a reply, says, in a circular letter to the representatives of his Government, that "the right of the King of Mosquito should be maintained as extending from Cape Honduras down to the mouth of the river San Juan." The answer of Chatfield, the English *factotum* in Central America, improves on Lord Palmerston's exaggerated claim, and says that the Mosquito boundary should pass the river San Juan and reach even to Chagres; because, he says, "looking to the probable destinies of these countries, considerable advantages might accrue in after times by reserving the rights of Mosquito beyond the river San Juan," and suggests, as Manning had done, an "early assertion" of these claims.

The actual seizure with armed force of the port of San Juan, the only terminus of the inter-oceanic communication on the Atlantic side, under pretext of the right of the Mosquito King, and the knowledge of the schemes and designs revealed by the above extracts, prompted Mr. Hise to make the effort to conclude his proposed treaty. In the fear of England, but under the pretexts of want of authority, the administration of General Taylor would not even submit the convention to the Senate, and withheld it from the Senate on a call for it, as appears from Senate Journal, February 13th, 1850. However, General Taylor did what Mr. Buchanan had so singularly omitted to do. He answered to the applications which the Nicaraguan republic had addressed to this for protection against English encroachment, and says, after a recognition of the correctness of the positions taken by the Nicaraguan government, that "the representations of Nicaragua had been received with lively and painful interest," and that the

United States would coöperate to "vindicate her just territorial rights, and secure her peace and prosperity." Assurances to the same purpose were made by Mr. Clayton. How have they been redeemed by him or his successor?

Mr. Squier received instructions from Mr. Clayton, from which may be gathered his intention to make a treaty with Nicaragua, not wholly inconsistent with our interests and the promises we had made. Unfortunately, however, the treaty made pursuant to those instructions was suppressed by Mr. Webster. And more unfortunately still, Mr. Clayton made a treaty with England, which, under the construction given by his successor, surrendered the very rights it was intended to protect, and was fatal to the treaty negotiated by his own agent, under his own instructions. Mr. Clayton says, after a masterly and conclusive argument against the right of the English under the Mosquito King:

"It is manifest, indeed, that the rights claimed by Great Britain nominally in behalf of the Mosquito King, but really as her own, are founded in repeated usurpations, which usurpations were repeatedly and solemnly acknowledged and relinquished by her during the domination of Spain on the American continent. Since that domination has ceased, those claims could have had no other foundation for renewal than the supposed weakness or indifference of the governments invested with the rights of Spain in that quarter."—*Instructions of John M. Clayton, Secretary of State, to Mr. Squier, Etc. Doc. 75, 31st Cong., 1st Sess.*

And again, giving his own views of the Clayton and Bulwer treaty:

"We have never acknowledged, AND NEVER CAN ACKNOWLEDGE the existence of any claim of sovereignty in the Mosquito King, or any other Indian in America. To do so would be to deny the title of the United States to her own territory. Having always regarded the Indian title as a mere right of occupancy, we can never agree that such a title should ever be treated otherwise than as a thing to be extinguished at the will of the discoverer of the country. Upon the ratification of the treaty, (the Clayton and Bulwer treaty,) Great Britain will no longer have any interest to deny this principle, which she has recognized in every other case in common with us. Her protectorate will be reduced to a shadow. *Stat. nominis umbra*, for she can neither occupy, fortify, or colonize, nor exercise dominion or control in any part of the Mosquito coast, or Central America. To attempt to do either of these things, after the exchange of ratifications, would inevitably produce a rupture with the United States. By the terms of the treaty neither party can protect to occupy, nor occupy to protect."

Mr. Clayton further instructs Mr. Squier:

"We are willing to enter into treaty stipulations with the government of Nicaragua that both Governments shall protect and defend the proprietors who may succeed in cutting the canal, and opening water communications between the two oceans. All apprehensions may, and will be removed by the solemn pledge of protection given by the United States, and especially when it is known that our object in giving it, is not to acquire for ourselves any exclusive or partial advantage over other nations. Nicaragua will be at liberty to enter into the same treaty stipulations with any other nation that may claim to enjoy the same benefits, and will agree to be bound by the same conditions."

And yet again Mr. Clayton says as to boundaries—and in utter exclusion of the English Mosquito claim:

"Against the aggressions on her territory, Nicaragua has firmly struggled—and protested without ceasing, and the feelings of her people may be judged from the impassioned language of the proclamation of her Supreme Dictator, November 12th, 1848. The moment [says he] has arrived for losing a country with ignominy, or for sacrificing the dearest treasures to preserve it. As regards myself, if the power which menaces sets aside justice, I am firmly resolved to be entombed in the remains of Nicaragua, rather than survive its ruin."

The eloquent appeal of the Minister of Nicaragua to his government, is evidence not less striking than impressive of the disposition of an injured people to resist what they believe to be injustice and oppression. Will other nations inter-



ested in a free passage to and from the Pacific ocean by the way of the river San Juan and Lake Nicaragua, tamely allow that interest to be thwarted by such pretensions? Meaning of the Mosquito protectorate of Great Britain! "*As it regards the United States, this question may be confidently answered in the negative.*"

Now, if all this means anything, it means to say that Nicaragua has a right to the line of proposed inter-oceanic communication, including the port of San Juan; and that we will protect this right, if she gives us the right of way—every line. The mere fact of treating with her about the matter, acknowledges her right. The instructions to Mr. Squier, provide that Nicaragua shall only "*enter into treaty stipulations with other nations that may claim to enjoy the same benefit, and will agree to be bound by the same conditions.*"

This very condition of the treaty with Nicaragua, forces England either "*to be bound by the same conditions,*" an acknowledgment of the right of Nicaragua to the port of San Juan, or it cuts her off from the equal enjoyment "*of the same benefits*" of the transit route. Pursuant to these instructions, Mr. Squier made a treaty with Nicaragua, carrying out their spirit and intention, fully and fairly. I cannot give the treaty in full, but the following clause shows its character:

ART. 36. "It is expressly stipulated that the citizens, vessels, products, and manufactures of all nations, shall be permitted to pass upon the proposed canal, through the territories of Nicaragua, subject to no other, nor higher duties, charges or taxes, than shall be imposed upon those of the United States: *Provided always, That such nations shall first enter into the same treaty stipulations and guarantees respecting said canal, as may be entered into between the State of Nicaragua and the United States.*"

The same provision is made in the treaty of commerce, negotiated at the same time. The right of way was granted by Nicaragua to American citizens; and this treaty, as is obvious, would bring all nations into league against England, if she refused to make the same. Had this treaty been adopted, Nicaragua would have been secured according to her prayer to us, and our solemn pledges to her, against the encroachments of England.

Of course England opposed this treaty in Nicaragua, by every art, which I have not space here to expose. She failed; and as far as Nicaragua was concerned, the treaty was made 23d September, 1849. It was sent home, approved by General Taylor, and submitted to the Senate. It was never acted upon. The death of General Taylor placed our foreign relations in other hands than those of Mr. Clayton, and gave the English Government the power it would probably not otherwise have had, to turn against us those very acts of Mr. Clayton, which, if unwise in the last degree, wanted yet the action of Mr. Fillmore and his Cabinet, to become altogether disgraceful.

Mr. Clayton, pending the negotiations above alluded to with Nicaragua, and no doubt, as he has often declared, for the purpose of concluding forever the British claims, of whatever character, which came in conflict with the rights of Nicaragua, committed the fatal error of treating with England in an affair in which she had no right. He intended, by the very terms of the treaty, to declare that she had no rights. Why, then, in the name of common sense, should he have treated about those rights as if they existed? But here is the article of the treaty on which all the outrageous claims of England are based, and by which, under the construction of this Administra-

tion, we are made to yield the whole question originally in dispute, and to stultify ourselves before the world:

"ART. 1. The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords, or may afford, or any alliance which either has, or may have, to or with any State or people, for the purpose of maintaining or erecting any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or the subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal, which shall not be offered on the same terms to the citizens or the subjects of the other."

Now, no doubt this appeared clear to Mr. Clayton, and no doubt he thought that by no greater sacrifice than the great principle of "non intervention by the Powers of Europe in the domestic affairs of the independent States of this continent," he had attained his object and avoided any collision with England. On the contrary, England has so construed the treaty as to make it an acknowledgment of all her most extravagant demands. Mr. Bulwer says, in a letter to Mr. Webster, that the agreement was not designed to affect the position of Great Britain as to the Mosquito kingdom—and argues that the mere reference to protection contained in the treaty recognizes the right and the fact, and that England only meant to say that she would not exercise this protectorate so as to interfere with the proposed canal. Under this construction, England now occupies San Juan—*now oppresses Nicaragua, and now sustains the very protectorate under which she had perpetrated all the wrongs we have pledged ourselves to redress.* In further evidence of the construction put on this treaty by England, and also her mode of dealing with refractory republics, see this letter from the representative of England in Central America to the government of Nicaragua, 15th August, 1850:

"Instead of insisting on its supposed right to the Mosquito shore, Nicaragua would best consult her interest by at once making good terms with England—for resistance in this matter will be of no further avail. It is impossible that Nicaragua should be ignorant of her Britannic Majesty's relation to the Mosquito question, as it has before it the letter of Viscount Palmerston, of the date 15th April last, in which he declares, in the most clear and direct terms, the utter impossibility of acceding to the pretensions of Nicaragua. On the other hand, the treaty of Messrs. Clayton and Bulwer, about which you have so much to say, and in which you express so much confidence, expressly recognizes the Mosquito kingdom, and sets aside the rights which you pretend Nicaragua has on that coast. The true policy is for Nicaragua to undeceive herself in this respect, and to put no further confidence in the protestations and assurances of pretended friends, (viz. Americans.) It will be far better for her to come to an understanding, without delay, with Great Britain, on which nation depends not only the welfare and commerce of the State, but also the probability of accomplishing anything positive concerning inter-oceanic communication through her territories, because it is only in London that the necessary capital for such an enterprise can be found."

I will not now argue the question if this be the true construction; it is or it is not. If it is, we have surrendered the Monroe doctrine wholly; we have violated our pledged word willfully, and we have, by acknowledging the Mosquito king, subverted the very principle on which all territorial

right in the New World rests, viz: that the aborigines had only a possessory right, and no sovereignty or eminent domain over any part of it. If it is not the true construction, we are permitting England to violate her treaty obligations with us most injuriously every day, and by this same violation of faith with us, to inflict the deepest wrong on the sister republic which had claimed, and to which we had promised our protection.

This would be our position if no further action had been taken by this Administration after Mr. Clayton left the Department of State. But, sir, I grieve to say that the most intolerable part of the record remains to be completed. And here, sir, I wish to bring a most significant fact before the committee and the country. On the 26th of February, 1851, the following letter was addressed by the Minister of Nicaragua to the Secretary of State, (Mr. Webster.) I give a translation as literal as possible:

WASHINGTON, February 24, 1851.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the republic of Nicaragua, has the honor to address Mr. Daniel Webster, Secretary of State of the American Union, to submit to him a few remarks concerning the interpretation that Great Britain has believed necessary to give to the treaty concluded between this last Power and the Government of the United States, the 19th April, 1850. It is notorious to all that the said treaty has for object to give the most complete security for the execution of the maritime canal through the Isthmus of Nicaragua and to guaranty the neutrality of this important way of inter-oceanic communication. With out any doubt to attain this object, and in order to avoid difficulties of any kind to the lawful execution of said treaty, both Governments have thought necessary to insert in the articles, the nomenclature of the States, districts, and localities adjoining the place through which the canal is going to run, among others the coast and the Mosquito country which form and constitute, and that have constituted and formed an essential and integral part always of the republic of Nicaragua.

Hence arose that Great Britain, wishing to take advantage of the same test and the clauses of the treaty, has directed all her agents in Central America, and principally in Nicaragua, new instructions and communications in which expressly is stated that the Government of the American Union recognizes the existence of the pretended Mosquito kingdom, and the usurpation of the port of San Juan, and that, far from debilitating the rights of the savage chief, the treaty confirms them in full.

The undersigned, although fully persuaded of the error of the British Government, cannot help, on this account, to address Mr. Daniel Webster, Secretary of State, with the view of ascertaining if the Government of the Union really intends to recognize the existence of a territory separated, covering, and independent of the republic of Nicaragua, generally known under the name of the coast and Mosquito kingdom, and if the actual Administration which directs the destinies of the American people so wisely and prudently, abounds in the ideas and principles expressed in the dispatch of his honorable antecessor of the 7th of May, 1850, directed to the *Chargé d'Affaires* of the republic of Nicaragua.

The undersigned avails himself of this opportunity, &c., &c.

To which letter no answer has yet been returned. Perhaps this silence, apparently unaccountable, will be made intelligible by considering carefully the *projet* of a convention signed by the Secretary of State for the United States, and the British Minister, (Mr. Crampton,) and presented to the government of Nicaragua. The *projet* should be inserted entire, but its length forbids. I give its substance, under all the responsibilities for any misrepresentation:

I. That the entire southern bank of the river San Juan and Lake Nicaragua, including the department of Nicoya, or Guanacaste, on the Pacific, shall be definitely conceded to Costa Rica.

II. That the Mosquito kingdom shall comprise the territory lying between the mouths of the rivers Rama and Segovia, on the eastern coast of Central America, and shall extend inward to the meridian of 83° 30' west longitude.

III. That the port of San Juan de Nicaragua shall be "ceded" to Nicaragua by his august Majesty, subject to a

variety of conditions, amongst which is a recognition of all Mosquito grants, and the surrender, for three years, of all duties collected there, at a rate of ten per cent. annually, to this august potentate.

The Mosquito Indians do reserve to themselves, out of the territory heretofore claimed and occupied, on the eastern coast of Central America, a district of country to be bounded as follows: Beginning on the shore of the Caribbean Sea, at the mouth of the river Rama, which is 11° 34' north latitude, and 83° 46' west longitude, running thence due west to the meridian of 84° 30' west longitude from Greenwich, thence due north on said meridian to the river Segovia, thence down said river to the Caribbean Sea, thence southerly along the shore of said sea to the place of beginning, and all the rest and remainder of the territory and lands lying southerly and westerly of said reservation, heretofore occupied or claimed by the said Mosquitoes, including Greytown, they shall relinquish and cede to the republic of Nicaragua, together with the jurisdiction over the same, in consideration of the net receipts for three years from all duties levied and collected at Greytown, at the rate of ten per cent. *ad valorem* on all goods imported into the State—the period of three years to commence on the day when Nicaragua shall formally take possession of and enter into the occupancy of said town. The said net receipts to be payable quarterly to such agent as may be appointed to receive them.

Nicaragua is required not to molest or interfere with the Mosquito Indians within the territory reserved to them.

The first thing which strikes one on examining this *projet* is the recognition of the Mosquito kingdom. This it not only does expressly by setting forth its boundaries, but by stipulating for the cession ("ceded" is the term used) of the port of San Juan on certain oppressive conditions, by the Mosquitoes to Nicaragua. Now, as to this Mosquito kingdom, in the extracts already made from Mr. Clayton's instructions to Mr. Squier, the argument against any title in them is complete. But I will add a few considerations and authorities to the same purpose:

"The Mosquito Indians are sunk in the lowest state of ignorance and barbarism. Their number (including the Woolwas, Ramas, Towkas, and others not recognizing the sovereignty of the Moscos) does not exceed five thousand."—Mr. Hise, *United States Chargé d'Affaires*, to Mr. Buchanan, February, 1849.

"The Mosquitos are inferior to the Indians of the United States in personal appearance, and infinitely below them in the mental scale. They are squalid and miserable beyond description. From the best of my information the 'nation' does not exceed one thousand or fifteen hundred, and it is not probable that one tenth of those have any idea of a national character. It should be understood that a number of Indian tribes in the interior are claimed by the English to be under Mosquito jurisdiction, but I cannot learn that they admit any such authority. On the contrary, they actually prohibit, under penalty of death, any intermixture with the Mosquitos."—Mr. Squier, *United States Chargé d'Affaires*, to Mr. Clayton, June, 1849.

"They do not appear to have any idea of a Supreme Being."—*Young's Mosquito Shore*, p. 72.

"Chastity is not considered a virtue; polygamy is common amongst them."—*Id.* p. 73.

"A plurality of mistresses is no disgrace, and it is not uncommon for a British subject to have one or more of these native women at different parts of the coast. They have acquired great influence through them."—*Macgregor's Report to British Parliament*.

"I have never known a marriage celebrated amongst them. The children are, in general, baptized by the captains of trading vessels from Jamaica, who perform the ceremony with anything but reverence on all who have been born during their absence. Many of them are indebted to them for more than baptism. I could enumerate more than a dozen children of two of these captains. By this licentious and immoral conduct, they have identified themselves with the natives. Their arrival is hailed with joy, as the season of festivity, revelry, christening, and debauchery."—*Robert's Mosquito Shore*, p. 109.

And the Secretary of State of Nicaragua to Lord Palmerston, says:

"You know, sir, very well, that the established practice for a society which considers itself capable of assuming the rank of a nation, to obtain its recognition as such, is, to solicit through its chief, his ministers, or direct accredited agents, the recognition of established States. But this rule



of international law has in no way been complied with by the pretended King of Mosquito, who, it is alleged, now assumes to raise the question of boundary with Nicaragua. This government has not recognized, and will never recognize such a kingdom as 'Mosquito,' much less the territorial pretensions of which you speak. No such king has existed, or now exists. It is preposterous, sir, that a few savages, wandering in the forests and wastes on the coasts of Honduras and Nicaragua, living by the chase and fishing, without houses, without a known language, without written characters, arts, laws, or religion, without any of the elements which, according to received principles, are necessary to a national existence—that such a horde of savages should profess to constitute a regular society, or what is more, a kingdom!"

Chief Justice Marshall says—and the opinion has never been contradicted or questioned—in regard to all Indian title:

"While the different nations of Europe respected the rights of the natives as *occupants*, they asserted the *ultimate dominion* to be in themselves."

And again:

"The United States maintain, as all others have maintained, that discovery gave the exclusive right to extinguish the Indian title to occupancy, either by purchase or conquest, and also gave a right to such a degree of sovereignty, as the circumstances of the people would allow them to exercise."

But, sir, not only are the Mosquitos incapable of the rights asserted for them in this treaty, but the republic of Nicaragua has a title to the port of San Juan and the whole of the territory to be "ceded" by this *projet* as clear and indisputable as the United States to the District of Columbia. In 1502, Columbus sailed from Cape Honduras to the Isthmus of Panama, and took possession in the name of Spain. There are grants made in close and constant succession of different parts of this coast by Spain down to 1786. England had, however, attempted to exercise sovereignty over part of the Mosquito shore in the mean time; but by a treaty of the above date she recognizes the title of Spain, and withdraws her protection from such of her subjects as may "be so daring" as to settle on the territory belonging to Spain. The terms of this treaty are recognized and renewed by the treaty of Madrid, dated August 28th, 1814. The history of the time from 1814 to 1824 exhibits abundant proof of occupancy by Spain of this coast; and when the confederation of Central America declared its independence, England herself recognized it with the boundaries settled in the constitution as reaching from "sea to sea." And on the dissolution of that confederation England also recognized the boundary of the State of Nicaragua, which was declared to run from sea to sea. By two treaties with Spain, one in 1836, the other in 1850, the title of Nicaragua is recognized over the *Mosquito coast* and "*from sea to sea*." The port of San Juan, which this *projet* would make Nicaragua purchase from the Mosquitos, was fortified by Spain as early as 1665, and the defenses renewed in 1727, and her occupation of it uninterrupted till 1824, when the troops of Nicaragua expelled the Spanish garrison. In 1842, and also in 1844, San Juan was blockaded by England as a port of Nicaragua, to recover claims brought against Nicaragua. And England never in any way, till 1847, disputed the title of Nicaragua, at least to this point; and never in any manner asserted the Mosquito title south of Blewfield's Bay before that year, when, as I have before shown, she determined to control the terminus of the inter-oceanic communication, and under this ambulatory Mosquito claim seized with an armed force the port of San Juan, driving out the troops of Nicaragua, and holding it herself, as she still

holds it, under the affectation of a Mosquito protectorate.

The *projet* also contemplates a robbery of Nicaragua in favor of Costa Rica, which is so clearly and concisely exposed in the following extract, that with it I may finish this part of the subject:

"Upon the independence of Central America, the various provinces of the old Captain Generalcy, corresponding to our thirteen colonies, took the rank of independent States, and, as such, subsequently entered into the confederation of Central America. Each State assumed the boundaries which it had possessed as a province. From this arrangement there was no dissent. As provinces, the boundary between Costa Rica and Nicaragua had been repeatedly defined by royal decrees, by the historians of the country, and by the official maps. This was a right line, running from the lower or Colorado mouth of the San Juan river, to the mouth of the Rio Salto de Nicoya, or Alvarado, on the Pacific. All the Spanish maps, from the earliest periods to that of the disruption of the Spanish Empire in America, all lay down this line as a boundary. But upon this point the best evidence is that furnished by Costa Rica herself. In her first constitution, (art. 15, chap. ii,) dated January, 1825, she defines her boundary on the north to be precisely what we have stated, *i. e.*, the mouth of the San Juan on the Atlantic, and that of the Alvarado on the Pacific. Were any further evidence necessary, it is afforded by the map attached to Thompson's Guatemala, which was furnished to the author of that work, officially, by the Government of the republic of Central America, of which Costa Rica formed a part. There was neither misunderstanding nor dispute upon the subject."

"So things remained up to the 9th of December, 1826, when the Federal Congress, from causes in no way connected with any question of territorial right, passed a decree as follows: '*For the present, and until the boundaries of the several States shall be fixed in accordance with act seven of the constitution, the department of Nicoya (or Guanacaste) shall be separated from Nicaragua and attached to Costa Rica.*' Although this decree was provisional, Nicaragua did not submit to it without an earnest protest, in which the inhabitants of the district also joined. The Congress, however, never proceeded to define the limits of the respective States, and in 1838, the confederation was dissolved. By the dissolution, the original rights of the States, territorial as well as all others, reverted to them again in their sovereign capacity. The temporary alienation of Nicoya ceased, and it reverted to its true proprietor, whose rights, at the most, had only been suspended. Yet, it is upon this temporary concession of the Federal Congress that any claim of Costa Rica must rest; but no claim thus founded can for a moment receive the sanction of reason."

"Still, admitting it to its full extent, and admitting that Congress not only had the right of separating Nicoya from Nicaragua, and supposing that it had exercised the power with a view to permanency, and that the whole transaction had been concurred in by Nicaragua, yet, even then, Costa Rica could not claim a foot beyond the *actual limit of the department of Nicoya*, which constitutes less than one third of the vast territory which Mr. Webster proposes to surrender to her! Nicoya is comprised between the southwestern shore of Lake Nicaragua and the Pacific, and embraces no portion of the territory south of Lake Nicaragua, and below the San Juan river, a territory over which Nicaragua has always maintained jurisdiction, where she has had forts for centuries, and which she still occupies. As late as 1846, Costa Rica negotiated with Nicaragua for the *privilege of passing through this territory*, and in 1848 made overtures for the purchase of it."

This plan for the partition of Nicaragua was presented to her Minister here. He resisted and expostulated, but in vain; it was sent to Nicaragua, and, after being considered by the Government, was replied to by the following decree:

*The Director of the State of Nicaragua to its Inhabitants:*  
Inasmuch as the Legislative Assembly has decreed the following:

The Senate and Chamber of Representatives of the State of Nicaragua, in Assembly convoked—

#### DECREES:

ART. 1. The State of Nicaragua does not accept the project of convention or recommendatory basis, adjusted on the 30th of April last, between his Excellency Daniel Webster, Secretary of State of the United States, and his Excellency J. F. Crampton, Envoy Extraordinary and Minister Plenipotentiary of her Britannic Majesty, in respect to the territorial boundaries between Costa Rica and Nicaragua, and the separation of the Mosquito coast.



ART. 2. The State of Nicaragua is disposed to have the question started, in connection with the points mentioned, discussed before imperial arbitrators.

ART. 3. The State of Nicaragua protests solemnly against all foreign interference in the affairs of its government, and against the use of force to coerce its will or violate its rights.

Given in the Hall of Sessions of the House of Representatives, Managua, July 14, 1852.

AUGUSTIN AVILEZ, *Rep. Pres't.*

JOAQUIN CUADRA, } *Rep. Sects.*  
MARIANI BOLANOS, }

In the Executive Hall of the Senate, Managua, July 16, 1852.

MIGUEL R. MORALES, *Senate Pres't.*

J. DE J. ROBLETTO, } *Senate Sects.*  
T. GUERRA, }

Therefore, let it be executed. J. L. PINEDA,  
*Supreme Director of the Government of Nicaragua.*

MANAGUA, July 19, 1852. A true copy:

CASTILLON, *Secretary of Foreign Affairs.*

The following decree had been passed before (viz: in October, 1849) by the same authority:

"The Legislative Chambers of the Republic of Nicaragua, in view of past events and existing circumstances, in conformity with the settled sentiments of the people which it represents, solemnly declare:

"1. Their adhesion to the principle of the total exclusion of European interference from the domestic and international affairs of the republican American States, as necessary to their peace and independence.

"2. That the extension of monarchical institutions by conquest, colonization, or by a support of savage chiefs to sovereignty, or savage tribes to national existence, or by other means upon the American continent, is in opposition to the interests of the republican American States, dangerous to their peace and safety, and an encroachment upon their individual and collective rights."

And thus the affair was suspended; and nothing but the firmness and decision of the Nicaraguan government has saved us from the deep guilt involved in the *projet* just discussed. When it was discovered that this plan would be opposed by the Minister of Nicaragua, application was made to his government for his recall; this was refused, as he was a long-tried and trusted representative, and the reasons of the demand were asked for; they were not given, but after the death of the then Secretary of State, as lately as the 30th of December, 1852, only the other day, the present Secretary of State addressed a note to the Minister of Nicaragua, refusing to recognize him in his official character; thus proving the persistence of this Administration in the same policy which had dictated the refusal to answer the inquiry contained in the letter to Mr. Webster, inserted above, and making the present Secretary of State a sort of administrator, *de bonis non*, of the unexecuted vengeance of his predecessor.

The last point to which I shall ask the attention of the committee, is the seizure by England of the islands of Roatan, Bonacca, &c., &c., in the Bay of Honduras. This has been completed in two acts; on the 10th of August, 1851, the superintendent of the Balize took possession of, and attached these islands as a dependency of the Balize.

In July, 1852, they were regularly organized under the name of the "Colony of the Bay of Islands." That this is a manifest violation of the Clayton and Bulwer treaty, in the sense which it bears on its face, does not admit of contradiction. But it is contended by the agents of England, that under the explanations and exceptions and conditions between Mr. Clayton and Mr. Bulwer, that British Honduras was not within the scope of that treaty, or its dependencies. Now, admitting this proposition, it is a fact known to every one that these islands were only held by the English themselves to be dependencies of British

Honduras in August, 1851, more than a year after the treaty was concluded; consequently, they could not have been "the dependencies" spoken of in the secret conditions of the treaty. But it is perfectly clear that, under existing treaties, (from which I have already cited paragraphs for other purposes,) in unbroken series from 1763 to 1814, and now governing the relations between England and Spain, and from laws passed by the English Parliament, and now in force, that England had no such right even in the Balize or British Honduras, as is asserted over these islands.

Under these treaties, the Balize itself belongs to the State of Guatemala, and the islands now in dispute as clearly to Honduras. By the seventeenth article of the treaty of peace, of 1763, it was provided that "His Britannic Majesty shall cause 'to be demolished all the fortifications which his 'subjects have erected in the Bay of Honduras, 'and other places of the territory of Spain, in 'that part of the world, within four months."

The English did demolish some of their forts, but retained some of their establishments, which violation of the treaty of 1763 led to another war. This war was concluded by a treaty of peace in 1783, by which the English were allowed the privilege of cutting logwood in the district "lying between the rivers Hondo and Balize, provided that 'the stipulation shall not be considered as derogating in anywise from the rights of sovereignty 'of the King of Spain." It also provides that all English subjects, "whether on the Spanish continent, or in any of the islands whatever dependent upon it," shall retire within the district above defined. As the conditions of this treaty were violated by the English, another was entered into, in 1786. The first article of this treaty is this:

"His Britannic Majesty's subjects, and the other colonist, who have enjoyed the protection of England, shall evacuate the country of the Mosquitos, as well as the continent in general, and the islands adjacent, without exceptions situated beyond the line hereafter described as what ought to be the frontier of the extent of territory granted by his Catholic Majesty to the English, for the uses specified in the third article of the present convention.

"The English line, beginning from the sea, shall take the center of the river Liban, or Jabou, and continue up to the source of said river; from thence it shall cross in a straight line the intermediate land till it intersects the river Wallace, (Balize,) and by the center of the same river the line shall descend to a point where it will meet the line already settled and marked out by the commissaries of the two Crowns in 1783."

The third article provides that the English may cut certain woods, and "gather such fruits of the earth as are purely natural or uncultivated." And further:

"But it is expressly agreed that this stipulation is never to be used as a pretext for establishing in that country any plantation of sugar, coffee, cocoa, or other like articles, or any fabric or manufacture by means of mills, or other machines whatsoever, (this restriction, however, does not regard the use of saw-mills for cutting or otherwise preparing the wood,) since all the lands in question being indisputably acknowledged to belong to the Crown of Spain, no settlement of that kind, or the population which would follow, could be allowed."

In this settlement of boundaries, it will be observed that no islands are included; but as if to exclude all doubt upon that subject, the fourth article of the same treaty provides that the English shall use for certain purposes the island of Casina, of St. George's Key, but that "no fortifications shall be erected, or troops established there." Article fifth also provides that some small islands, (not, however, those now in dispute,) may be used by the English for the same purposes, and with the same restrictions as St. George's Key.

"Spanish sovereignty over the country," and the exclusion of any "system of government, either military or civil," by any other Power, are expressly provided for in article sixth. It is obvious, therefore, that the British claim to the Balize is a mere possessory right guaranteed and limited by treaty, and for certain specific purposes, and it is equally obvious that the islands in dispute are not under the treaties, or in any sense dependencies of the Balize.

The limits laid down for the English in the treaty of 1786, were within the territory claimed by and recognized by Spain, as belonging to Guatemala, and that State has the undoubted right, derived direct from Spain, to sovereignty over it. By the same title the islands in dispute belonged to the State of Honduras, and were acknowledged as her territory by Great Britain herself in 1830, when England disavowed in plain terms the act of the superintendent of the Balize in seizing the island of Roatan. The treaty of 1814 refers to and revives the treaty of 1786 with all the boundaries and rights which it contained, and that treaty is the law of the case at the present day. And England has so recognized it to be by acts of Parliament as late as 1819, and now in force, which amends an act passed in 1817, in which these words occur:

"Whereas, grievous murders and manslaughters have been committed at the settlement in the Bay of Honduras, the same being a settlement for certain purposes in the possession, and under the protection of his Majesty, but not within the territory and dominions of his Majesty," &c.

As to the part we should take in any dispute between Guatemala and Great Britain, in regard to the Balize, I have said enough before to indicate my opinion; but upon the much clearer ques-

tion arising from the seizure of these islands, which were not dependencies of the Balize, but of the State of Honduras, and which were not claimed as dependencies of Balize for a year after the Clayton and Bulwer treaty, and which therefore could not come within the doubtful reservations, secretly made by Messrs. Clayton and Bulwer explanatory, I do not see how Americans can differ. The treaty of 1814 is plainly violated; the Clayton and Bulwer treaty is as openly broken in the clause which provides, "that neither Great Britain nor the United States shall occupy, fortify, or assume, nor exercise dominion over any part of Central America."

We should take such action as would enforce the treaty, let the result be what it may. It would be no war for conquest, but for the maintenance of national honor and good faith. It would result in placing us in our natural position, as the protector of those republics which have been created by the force of our example, and which have a right to look to us for aid in those emergencies in which we are as deeply compromised as they. I believe such a war—even if there should be a war from the assertion of our manifest rights—would terminate with extended territory, augmented power, and increased influence in the world. If, in its results, the ties which would exist between ourselves and the States of Central America, as guardian and ward—if the sympathy of a common republicanism should be drawn yet closer even to a political union—I can see nothing of evil augury in the prospect. Not that I would desire to see war for this or any other purpose, but to avert injury and disgrace; but I believe that such a war, and for such a purpose, is as sound in policy as right in morals.

# An Address to the People

## CONTENTS.

- My failure to obtain a hearing by prominent public officers and other citizens, by advancing public questions of great importance.
- Certain Government policies, are firmly based on stable erroneous ideas, public sentiments and prejudices; respectively, on ideas and principles, which have outlived their usefulness.
- The subjugation and enslavement of the people in their majority, has been realized by a certain evil spirit, clothed with wealth and influence.
- Explanation of the nature and power which is contained in the wealthy and influential class of citizens.
- The interests of the majority of the people in certain cases, have been grossly neglected and abused at all times.
- The public education, in regard to the establishment of a moral and religious national character, has been a great failure, on account of the circumstance that outlived ideas and systems, based upon erroneous public sentiments and prejudices, have been suffered to prevail and to be made permanent.
- Exposition of the existing erroneous, unequal and unconstitutional mode of taxation, and of a blundering system of assessment. Assessors are required to estimate the value of the property of certain tax-payers, by adding to the same the amount of their debts.
- The evil spirit has seized entire control of the sphere of journalists and other political leaders, and possesses the competency to extend to matters, at will, publicity and popularity, or on the other hand, to consign displeasing questions and truths to silence and oblivion.
- Illustration of the nefarious settlement of the Mexican land titles in the State of California effected under the control of the power of influence, regardless to justice and existent laws, and ignoring decisive points, arguments and pleas; by which settlement the entire made value of the land, unquestionably owned by the late temporary settlers and occupants of the land, has been seized by Mexican grantees, not being timely recognized in this quality by the Government, respectively by those parties holding under the same, without making any compromise for the delivery of the said made value, nor without giving any compensation or consideration for the acquisition of this property.
- Illustration of the stable and decisive, but not well digested, and also unconstitutional, policy of the Government in respect to foreign immigration, injuring inherent rights and privileges of the great majority of the people, stimulating the general competition in work and business, overstocking the market with products and fabrics, and reducing the general rates of wages, gains and profits.
- Explanation of the true theory of money. Gold and silver have no permanent and intrinsic value; and the depreciation of the national currency, is merely owing to a defective and blundering legislation.
- The erroneous valuing of money, is undeniably the only cause of the necessity and the existence of taxation.
- Explanation of a practical, simple and unfailing means, to cause in certain special cases the inauguration of a reformation of such stable and erroneous government principles as are mainly based on popular sentiments and prejudices.
- How such a reformation can be effected by isolated patriots, beyond the sphere, control and consent of the wealthy and influential class of citizens, and in face of the terry which can be brought to bear by the said class. That is to say, how such an independent power can be created, as will overreach the sphere of journalists and other leading parties, as well as those machinations which can be put in the way; and again, as will overreach those erroneous stable public sentiments and prejudices, presently constituting the basis of the subjugation and enslavement of the great majority of the people.
- It is apparent that in face of the present public situation, the addressing of a few thousand citizens, can hardly produce a greater effect, as a drop would have an effect on when shed in a bucket of water, but the addressing of millions on a few cardinal and indisputable questions, will produce an overwhelming sensation.



# TO WHOM IT CONCERNS.

DEAR SIR :

In your position as a public officer, and representative of the people, I take the honor of presenting to you here annexed a certain communication, entitled "An Address to the People," which will explain itself.

Deeming the advanced matter to be of great public importance, I respectfully solicit your hearing, by way of reading the said document.

And further, I respectfully beg to urge, that you may be pleased to bring the matter before that national and honorable body over which either you are presiding, or of which you are a member, and to urge an official investigation of the merits of the same.

And again, my humble request is, to consider and answer, or to cause the consideration and answering of the following questions, in face of those ideas, arguments and facts, as explained in the annexed communication.

*First*—Why, in face of the stated facts, national money should not be issued merely for the value of expenditures made by the Government?

*Second*—Why the conclusion of specific contracts, in respect to payments, should not be prohibited entirely by a special law, respectively be declared null and void?

*Third*—Why the free and indiscriminate use of all the various issues of national money for making payments to the full amount of the denominations of the same, should not be protected completely by the courts, and not be ordained by a special law.

*Fourth*—Why the Government should not explain the merits of her stable policy, being to the effect as to increase in unlimited numbers of foreign people, the producing and not the consuming classes; also, the merits of the policy to increase the working power of the country by way of introducing and admitting an unlimited number of foreign paupers; also, to explain why the quantity of products and fabrics which now is, and still can be produced by work and machinery, by the present population; as also, why the stock of working power now being in the country, should not be sufficient to satisfy the wants of the people in her majority?

*Fifth*—Why the people in their majority, should not be protected in the preservation of their property, in their timely prosperity, work and business, in their timely enjoyments of existent rates of wages, profits and gains, against the interference of foreign people immigrating to this country?

*Sixth*—Why, in the stated cases the Government, in face of her superior position, intellect and knowledge, and upon consideration of the matter, should not correct publicly such stable and popular ideas, sentiments and prejudices, as are influencing the elections, and are not meritorious enough to form the basis of the national policy?

Hoping that the cases and questions in point will have the benefit of a minute investigation and trial, and that I will be favored with an early communication, I have the honor to remain most respectfully,

Your obedient servant,

ALBERTUS MEYER.

Oakland, State of California, March, 1869.

# AN ADDRESS TO THE PEOPLE.

## FELLOW CITIZENS:

At a time when most of the important public situations are degenerated, and when this degenerated state is concealed before the eyes of the people, and this *statu quo* is covered up on the one side with inherited misapprehensions and prejudices, and on the other side with an unfaithful, bold ignoring, and by a deliberate creation of political confusions and machinations; and again, at a time when it has the appearance, that the people are taken by surprise, and that the dearest rights and privileges of the same, either inconsiderately or erroneously, are given away to foreign people, without any valuable consideration, when our ports are opened to hundreds of thousands or millions of foreign proletaires, to the detriment and ruin of the general profitability of work and business, and when it would appear, that it has become a duty to expose the demerits of the acts of the administration, and to impeach the Government before the tribunal of universal publicity, say at a time when desperate circumstances require desperate remedies, then fellow citizens, it becomes the duty of every good and able citizen to hasten to the rescue of the common country, but not in the spirit of grumbling on natural circumstances, nor in the spirit of gratifying passions and revolting sentiments, but in the spirit of reason, humility and patriotic devotion, as also in the effort of devising means for the inauguration of a proper and peaceful reformation.

In face of these circumstances, and in this spirit, I deemed it my duty to present at different times, certain communications to prominent parties, conveying several ideas and arguments, which I held decisive in the different questions of immigration, taxation, public education and of the theory of money, urging an investigation of the respective matters. But I am sorry to state, that I have no information what has become of them. In sending

these communications by mail, I have been careful in complying with the regulations of the post; however, in justice to the respective officers, as also in honor of the addressed parties, I will not presume that either they went to the dead letter box, nor to the waste baskets, though often it may be a convenient way to dispose of such delicate matter. Who can tell how often the truth (the property of the people), has been decapitated in secret, and put out of the way in silence.?

In honor of the truth it must be admitted, that in respect to the advanced matters, fixed ideas, sentiments and prejudices strongly have settled on the public mind, but this cannot afford any reason why the questions should not be investigated, for as universal and deep rooted such ideas, sentiments and opinions ever may be, they neither can have any bearing on the merits of the matter, nor on the sentences of logical reasons, nor on the merits of the policy of the National Government, as also not on the duty of the Government officers, and representatives of the people.

In consideration of this, and in consideration of the circumstance, that the different advanced ideas and questions are public property, I am unable to consent by leaving the matter where it happens to stand, wherefore, I beg to present the following communication to my fellow citizens, urging a careful examination of my statements.

However before entering on the subject, I wish to shed some light on those secret hinges, on which the affairs of the nation chiefly are turning.

In all classes of the people, from the very highest to the lowest, there is contained at the bottom of the heart, a good patriotic spirit, faithful and true to the just interests of the majority of the people. However there exists in the material relations of the same, a certain dependency, a terrified sentiment, a constant battling with competition and domestic sorrows, which all in all, more or less, enervates the

people, and makes them passive, retired in themselves, and despairing of relief.

On the other hand, there exists in the nation an evil spirit with ignoble and selfish proclivities, being indifferent against right and wrong. This evil spirit is clothed with the power of wealth and influence, and is possessed of the power indirectly to subjugate the people in its own authority. The power of this wealthy monster, consists in the means, either to patronize and to elevate, or to place in the dark and to hurt, to promote the prosperity of favored parties, and to turn their demeanor in his favor.

As all classes of the people, more or less, are depending from their superiors, respectively from the good will, favor and patronization of the said secret power, and as this power is able to realize by its wealth, knowledge and position, such ideas, machinations and schemes, as are in favor of its personal interests, and as this can be effected before the time, when its incroachments can be discovered, and be checked by constitutions and laws, the said power, in so far is sovereign and arbitrary in its sphere, and the records of history sufficiently show, that this evil spirit has been a tyrant and despot at all times, in spite of constitutions and laws, and always has kept its heels on the neck of the people.

The different spheres in which this dangerous and uncontrollable spirit in particular is moving, are public ignorance, misconceptions, delusions, sophistry, darkness, corruptness and terror, and his principal satellites and abettors, are such journalists, officials, representatives, politicians and other leading parties, as are unfaithful to the causes of the majority of the people, and to the just interests of the same; when they are carrying their unfaithfulness into their official stations.

As the said leading parties are depending in their private interests, prosperity, projects and stations on the good will, influence and patronage of the said wealthy tyrants, in a high degree, they are in so far at the mercy of the same, they have in so far, to stand on the same platform with him, and to be on their guard in not exposing themselves to his displeasure, they have to suggest his inclinations and desires, to espouse his cause, and to harmonize with his egotistic views, ideas and interests, and to renounce their own sound reason on such ideas, theories and tendencies as are entertained and mixed up by their influential and mighty superiors, and again, they have the greatest inducement, to carry unfaithfulness and treachery into their official stations, as far as circumstances will permit.

Now, when it happens that the said parties, thus being clothed with the confidence and authority of the people, more or less are characterless and unfaithful to the causes and interests of the majority of the people, when they are placing their own private interests higher than the interests of the community, when

they have no scruple to espouse a convenient cause, when it is in their power to seize the public voice, to represent, or to misrepresent public questions, to give popularity to any person or to any object they choose, to neglect and to suppress any important idea, evidence, arguments and points, bearing on national questions, when they are able to renounce the use of their reason and intellect in certain cases, and to ignore existent facts, and to conceal their own knowledge and convictions when they are able to sophisticate, to prejudice and to seize the sentiments and opinions of the people, and to place themselves in their proceeding on the very basis of a confused *status quo* which they have created themselves, respectively, which is inaugurated and mixed up by the power of influence, threshing empty straw, creating bugbears and fostering such political parties, as are ignoring reasonable grounds, and deciding points, respectively are precipitating the prejudiced and divided people in an abyss of political quarrels, confusion and revolution, when they are able to consume all these particulars, then there is no doubt that constitutions, laws and the liberty of the press, and the right to vote can be defied; and that the people can be led like chained dogs, subject to be tied up, and loosened, at the will of their masters.

When it cannot be denied that these circumstances are in existence, then it is also to be granted, that the said evil spirit, more or less, is able to hold the reins of the Government in an indirect and uncontrollable way, then there can be no doubt, that constantly he has at his disposal, an army of picked men, say of satellites bound to live up to his inclinations and interests, bound to avoid the fair discussion of all displeasing matters, and delicate questions, and to pay no attention to such displeasing truths, as are unknown to the people, and again it becomes apparent, that in the sense of the said invisible wealthy despot, millions of people all over the country, daily are harangued and belabored by journalists, politicians and other leading parties. It is fairly to be supposed, that in the sense of said nefarious power, the attention of the people can be distracted at pleasure from important public affairs by all sorts of machinations, by party quarrels, revolutionary movements, etc.

As already indicated, the power to extend publicity to such public questions as are deemed to be injurious; and the power to raise the public voice is in the hands of that certain unprincipled spirit which virtually controls the affairs of the nation in an indirect manner, and through the instrumentality of journalists and other public organs, which latter parties, as shown before, are alone in the field suffocating in silence and oblivion, all delicate and displeasing questions and matters, haranguing and belaboring millions of people every day, and intoxicating them with such ideas as they think proper; all under the cloak of patriotism, liberalism and radicalism. And while the com-



mon enemy is thus controlling the knowledge, sentiments and opinions of the people, and even while he is violating the progress of humanity, the honest patriot who perhaps made it a problem of his life to arrive at the sources of the public calamities and oppressions; say, while he tried to untie or cut the gordian-knot in the isolateness of his position, is unable to obtain a hearing before the forum of the people. In face of these circumstances, the honest man and patriot is resembling a preacher preaching in a desert: and the pamphlets which he may be able to write under great difficulties, and which may contain a good seed, are pretty sure to fail their purposes, and the greater part of the seed will fall on an unprepared, rocky soil. And the very pamphlets, perhaps in the greater part, will find a speedy way into the waste baskets, when they are coming in the hands of such parties who do not want to mix themselves in the matter, or who are standing on the same platform with that fearful, unrelenting sovereign.

After this introduction, I now beg to enter upon those subjects which I propose to treat; remarking, that at times it may happen that results of thinking are a common property of importance.

In respect to the question of foreign immigration I wish to raise certain points, the very existence of which, as it would appear, is to be ignored by journalists and other leading parties.

1st. Work, in the main point, derives from such wealth and prosperity and consume as is contained in the nation, and especially from that prosperity which is distributed in the majority of the people, as also from exportation of staple goods.

2d. The extensive stock of work is not conditioned by the numbers of the population when the people are poor.

3d. The stock of work which is contained in the nation by reason of the prosperity of the majority of the people, and by the general possession of money cannot be augmented by way of multiplying the number of the working classes by poor immigrants on account of their poverty.

4th. The prosperity of all those classes of people which are assigned to live on the earnings of work, say on the existent stock of work, and on the profits of the same, is based on the existent rates of wages, gains and profits.

5th. Poor immigrants (who are producing by far more than they are able to consume), are consuming the existent stock of work, to the detriment of the native working classes; they are enhancing the stock of products, fabrics and goods; also, are enhancing the competition in work, business and trade, and are reducing the rates of wages, gains and profits.

6th. When immigrated parties and their descendants have accumulated property, and have become prosperous and wealthy by interfering with the business and work of the people, and also with the consumption of the stock of work, and with the remuneration of the same, this

amount of prosperity and wealth does not increase that certain amount of prosperity and wealth which is contained originally in the nation, and which is constantly accumulating on account of the fact that that prosperity and wealth which is gained by the poor immigrated parties and their descendants, has disappeared from the native citizens, and from the descendants of the same.

7th. The presence and extensiveness of all the various dead resources of the nation as such does not justify a *bona fide* development, of the same when performed by the help and interference of foreign immigrants, such a development is attended with an extraordinary enlargement of the stock of goods, and with the reduction of the remuneration of labor, work and business.

8th. As the various working and business classes of the people constitute the great majority of the nation; the reduction of wages, gains and profits, by reason of the admittance of foreign paupers is a violation of the rights and interests of the people in its majority, a violation of property.

9th. Poor immigrants do neither import work nor do they enhance the consumption of commodities and luxuries; nor do they enhance the opulence, the prosperity and wealth by settling in the country; on the contrary, they are bound by necessity to absorb the existent stock of profitable work, and to prey upon the wealth, prosperity and property of the people.

10th. In as far as immigrated parties and their descendants have acquired property and wealth by way of interfering with the various occupations, work and business of the native citizens, and with the profitableness of work, the native citizens thus were compelled to divide their work and their earnings respectively, their property, with the new comers, without any direct or indirect compensation.

11th. It is frequently stated that foreign immigration of times past has added to the wealth of the nation, and that the development of the national resources by immigrants, has undeniably increased the wealth and power of the republic; but parties who are reasoning and exclaiming in this way, omit to state that the praised condition and achievement only is relevant to the situation of the republic in its quality as a body, but not applicable to the republic in its quality of individual citizens in their majority. It is a lamentable fact that the great bulk of the nation is more poor than prosperous, and that the achieved greatness, wealth and power of the republic in its entirety is not visible, nor that it has been beneficial to the welfare and happiness or greatness of the people in their majority and individuality.

12th. The absorbing of individual wealth from the various working classes of the people, by way of multiplying the number of these classes by foreign proletaires, and by way of dividing the wealth of the native citizens with immigrants, has a tendency to promote a state of destitution and slavery, as it produces cheap

labor, and a greater dependency of the rich class of people; and also, it gives a greater power to wealth and capital.

13th. The existent high rates of wages of the various working classes of people in some portions of the country are not owing to immigration, but are partly owing to the number of degraded and idle people being greater by far than in former times. Partly to the general want of knowledge where work is brisk and wages high, and partly to the difficulty of moving. But in particular, the scarcity of able people, and the existent high rate of wages, is owing to the circumstance that countless numbers of people have not been able to obtain a good moral education, neither in public schools nor at home. Unconsciousness, feebleness and vices are the prominent features of their character, disabling them to perform work in a desirable manner. It is true that this countless number of unhappy, disqualified and idle people are a great burden on the society; but notwithstanding this, they are citizens and have rights which cannot be claimed by foreign people. It is wrong to multiply this class of stragglers by the stragglers that are always in the train of immigrants.

14th. A nation has vested rights in the soil on which she lives, and also in the possession of her institutions, political formations and laws, which are affording to her the protection of life and property, and the enjoyment and exercise of all personal rights, benefits and privileges. All these particulars are her sole property, acquired at enormous sacrifices, struggles and costs. Wherefore foreigners have neither a right to claim an admittance into the society under the plea of having a natural right to live in the world where they please, nor have authorities a right to grant away inconsiderately the property of the people.

15th. As already indicated, the great amount of wealth and prosperity which is contained in the nation in her quality as a body, as well as the great might and power she possesses neither does it improve nor better the condition, welfare, prosperity and happiness of the same in her majority and in her quality of individual citizens. A nation may be very numerous, wealthy and powerful in her entirety, and may suit the ambition and benefit of the few, and at the same time, the great majority of the same may be poor, miserable and slavish.

16th. The whole stock of work which is contained in the nation, on account of the national wealth, capital and machinery, or on account of the richness of the soil, or of commerce, navigation, business and trade, is the exclusive property of the nation, and the nation cannot afford to give to foreigners a share in the consummation of the work, as the majority of the citizens are in want of work, business and trade. And again, the nation cannot afford to sacrifice the prosperity of the majority of the people by the consummation of a policy which is enhancing the competition, is overstocking the markets, is reducing the profits of work

and business, for the well being and benefit of capitalists, manufacturers, landowners, speculators, companies and foreign immigrants.

17th. The development of all national resources, the use of capital and machinery, and all legitimate enterprises of business, even the competition in work, business and trade, however great, is quite natural, and in the interest of the society, provided that foreign help and interference is excluded.

18th. A ruining of the remuneration of work and business by admitting foreigners, is a violation of the property of the majority, respectively, of ruining the general national prosperity.

19th. It is stated that immigration cannot be prevented, on account of the circumstance that our country is a republic, and on account of existent treaties and laws, but those parties who are reasoning in this way, do not consider that the people have a perfect and inalienable right to make or to amend, or even to abolish constitutions, treaties and laws; and that they are able to perform these actions at any time in a legal, wise and honorable way.

20th. Blunders and errors are not frauds, when unconsciously committed, but when they are committed knowingly, then they are perfidies and treasons. Bold criminals, however, high in repute and station, should be properly denounced and impeached, by way of bringing their offence before the tribunal of publicity.

The points enumerated above are so many accusations, in case the proper parties have failed knowingly to take cognizance of the same. I think it proper to dwell a little longer on the matter as the truth when concealed or suppressed cannot be exposed too much, nor be repeated too often.

It would appear, that the incomprehensible and eventful national policy in regard to foreign immigration, is mainly based on a mere public sentiment, which is to the effect that the boundaries of our country are immense, and that the population of the same is sparse; that the amount of national capital is great, and that work and freedom can be given to unlimited millions of poor and oppressed foreign people. And again, that the treasures which are hidden in the soil are inexhaustible, and are awaiting the hands of man to become unearthed and to be delivered over to the world, and in general, that the resources of our country are unlimited.

These arguments and pleas are plausible, but mere plausibility is not always correctness. It must be admitted:

First—That the existence of work is not owing to the circumstance that there are valuable national resources, but the existence of work is mainly depending on the impetus which derives from general prosperity and from the consume of the bulk of the people, from the ability to enjoy life, to pay for commodities, luxuries, and for objects of consumption.

Second—That prosperity, the flourish of trade and business, is created by the presence of suf-



ficient stock of work and by the profitableness of the same.

Third—That immigrants do not give any impetus to business and trade, by reason of their consumption and wants, because they are poor; but that they are injuring the development of the national resources, that they are producing infinitely more than they are consuming; which product cannot be disposed of to advantage, therefore causing an overstocking of the market, making the sales heavy, causing stagnation in business and trade, reducing the prices and cutting down the remuneration of work; also, causing an overdoing of work and business; that is to say, a forced performance of work and business, which does not pay.

Fourth—That immigration disregards entirely the bounds of competition in work and business, existent by nature, and the maintenance of the existent rates of wages, gains and profits.

The problem of the national Government is justly to promote the welfare, prosperity and happiness of the majority of the people; wherefore it is inconsistent with this purpose, to adopt a policy by which the general profitableness of work is injured; the competition in the various occupations is unduly enhanced, the markets are overstocked, and work and business is overdone.

It is a personal right of the citizens to perform the development of the national resources themselves (regardless of the centuries it may require), and for their own benefit and to keep off the injurious interference projected by the subjects of foreign nations. And again, the people have not surrendered this right by delegating the same to the Constitution. It is also to be stated that the direct loss which is caused to the people personally is not compensated to the losing parties, neither directly nor indirectly.

Foreign immigrants are representing all the various occupations which are followed in this country, by their arrival they are encroaching on all domestic labor, business and callings, by way of entering into competition with the citizens; they make it their problem to become the equals or superiors of the same by wrenching from the same all labor and business they can obtain, by eventually reducing their prices. In this way they are endeavoring to obtain for themselves that prosperity and wealth which would have been acquired by the native citizens. Wherefore it may be stated repeatedly that in the same degree the prosperity of foreign proletaires is increasing in the same degree the prosperity of native citizens is abating. And again, that in the same degree the consumption of commodities and luxuries is enhancing by the immigrated parties to the same degree the consumption of native citizens is diminishing.

What signifies pointing to those thousands of immigrants who formerly were poor and now are living in opulence and wealth, occupying the highest position in society, giving

work to thousands of citizens by their wants, and to ignore at the same time the presence of hundred thousands of people whose fate it has been to become poor by want of work; by stagnation in business and trade, by oppressive competition, profitless work, high rents, etc.

The more the prices of labor, or the profits and gains in business and trade are reduced, the greater is the poverty of the majority of the people, and the greater is the limitation of consumption, and the more scarce is work and business. And again, the working classes of people always are increasing in number rapidly by nature, and are producing more than they are consuming. Now, when foreign immigrants are swelling the ranks of these working classes, when the power of capital is setting them to work, and in particular, to work at machinery, when new machinery, for instance, steam ploughs, etc., constantly are invented, what is bound to become of the profitableness of work and what will be the effect on the already overstocked markets?

It is stated that foreign immigration of times past made the republic rich and powerful, but it is not stated that this increased richness and power has not been distributed in the millions of citizens in their individuality, but only came in the personal possession of the thousands.

Neither the increased numbers of the population of the country, nor the amount of national capital in its entirety, is a correct measure for the ascertainment of the greatness and blooming of the society. The true evidence of the blooming of the country is the general prosperity and the possession of money by the bulk of the people in their individuality.

It would be more preferable by far, when the population of the United States would be perhaps ten millions less than it is now; when at the same time, the individual prosperity and the possession of property and money would be perhaps five hundred per cent. greater. It would be far more preferable when that class of citizens comprising the land and real estate owners, the capitalists, the great merchants, ship owners and manufacturers, as also the hundreds and thousands of other people, who have become wealthy by the increase of the prices of land, by the presence of cheap labor or by the importation of immigrants, or by the introduction of machinery, were less numerous, and the millions of people who are assigned to live on the profits of work and business, and under the pressure of competition, were wealthier.

There is much boasting on the great hum and drum of large populated cities; but it is never stated that the immense hum and drum caused by poor and slavish people (struggling for a little prosperity and enjoyment of life or their daily bread for the benefit of the few) is no evidence of the prosperity and happiness of the society in its majority.

In order to form an idea of the effects of immigration, let us put the question for argument sake, what would become of California when



facilities could be procured or were at hand, to import ten millions or more of Chinese, what would become of the American people. In face of the fact that these Chinese are adapted to be trained in a short time to be able to perform any work and business, in face of the fact that they are used to the poorest living, and are willing to work for the smallest pay? What would be the result when these millions would engage and compete in all domestic callings, business and in farming at the rate of wages from one to two dollars per week? What would be the stock of all imaginable goods and products, in particular, when they were put to work at machinery, such as steam ploughs, etc. Could there be the least prospect and hope that the present prosperity of the majority of the people, and the present rates of wages, gains and profits, could be maintained for any length of time? Could there be the least hope that the various laboring and trading classes could spare so much as to be able to obtain a small homestead, or to obtain the means to get into a higher position? No, by the existence of so low a remuneration for work, the poorer classes of people and their descendants, would be unable to save and to accumulate even the smallest capital. If they were virtuous and pure like angels, and wise, like a Solomon, they would be slaves forever; they would have to live in pens; they would be clothed with rags, and have to associate themselves with their fellow slaves, morally degraded and sink in animality.

The policy of the Government to animate paupers of all nations to immigrate into this country, as also the policy of extending to them all national liberties, and the privilege to develop the resources of the country for their own personal benefit, and to the personal injury of those citizens who are the timely incumbents of work and business, is wrong; and the question is what can be done to effect a change in this policy, to enlighten the prejudiced people on this subject, by giving universal publicity to the truth?

The answer is, nothing else can be done under the present circumstances than cutting faces to that certain hidden sovereign monster, which controls the affairs of the nation by means of influence, and in particular by controlling publicity and public discussion. This nefarious power can afford to laugh at the windings of the down trodden people, and to speculate on the ignorance, prejudices and delusion of the same.

And again, we may ask, what can be done against the authority of the power of influence, which power resembles a monarch who is able to control the public affairs merely by uttering his desires, or even by the mere casting of looks to his prominent satellites and money making parties.

And again, what can be effected against wealthy people, in face of the circumstance that they are the owners and dispensers of

work, business and situations, as well as of patronization and favors. As also, in face of the ability of these parties to control the politics and elections by means of directing, holding in check, and of terrorizing the inclinations and will of the voting people, who are constantly under the ban of being dismissed from work and situations, or deprived of patronization and favors.

And further, what can be accomplished by poor people, by way of making so called "strikes." In fact nothing can be done in this way, on account of the circumstances, that competition, terry, dismissal from work, business and situation, poverty and hunger, in general are the unsurmountable bars, against the self-protection and enjoyment of liberty of the poor.

In regard to the treaties concluded with foreign nations, in particular to the treaty recently concluded with China, I think the question is:

1st. Is the possession of the soil of the country, the made value of the same; are the institutions of the nation the Constitution and laws of the country, the national resources the right to develop these resources free from the interference of foreigners, a sole property of the nation, and are they in existence to the sole benefit of the same?

2d. Is the personal right of the people, to perform national work for the sake of their personal benefit, to the exclusion of foreign interference inalienable?

3d. Have the people delegated to the Constitution, respectively, to Congress, in expressed terms, the right to grant away to foreign nations, respectively to emigrants, the above mentioned national property, right, and benefit?

4th. Has Congress a right, to grant to foreign nations, respectively to emigrants, the privilege to interfere with the personal rights of the people, with the profitableness of the national work, and with the national competition in work and business, to the immediate detriment of the prosperity, property, welfare and happiness of the majority of the people?

5th. Have foreign countries, or subjects belonging to the same, made any compromise, or have they given any consideration to the timely incumbents of national work and business, either directly or indirectly, for the personal loss, which the working parties are sustaining personally, by reason of interference with their personal rights, privileges and property?

Should the answers of these questions, be adverse to the *bona fide* admittance of foreign immigrants, respectively be adverse to the congressional policy, then it must be held, that those treaties, concluded with foreign nations, are, and always have been null and void.

A sovereign nation, is liable to the commission of errors, but in her designs, she is unable to commit self-destroying, immoral and unreasonable acts, as also she is not bound

in honor, to consummate treaties and contracts founded in error and wrong, and being void of a valuable consideration.

It puzzles the brain, why journalists, orators, stump speakers etc., in their public discussions, never are touching those questions, arguments and facts, exhibited in the foregoing statement. It puzzles the brain, why said intelligent parties, in their political harangues, always are hammering and hammering, and never are hitting the nail.

The inference is, that the said parties are in the habit of making it their business, to avoid or to dodge such other sides of political and delicate questions, as are strange and unknown to the people, in order not to offend that certain despotic and sophistical power, which is prospering on the ignorance and calamities of the people.

The diligent observer will not fail to find that it is in the interest of that certain evil spirit, which is clothed with wealth and influence, as he will find that it is no less in the interest of land owners, capitalists, railroad and other companies, great merchants, ship owners, manufacturers and the like, when the country is filled to the utmost extent with foreign paupers, when competition in labor and business is excessive, and the hours of work unreasonably increased, and the remuneration of work is brought down to the lowest figure, as these circumstances are affording to the wealthy class of people a cheap living, and to capitalists and other wealthy parties the means of making all sorts of speculations; as also, enterprises to foreign countries, where the wages are low, and where the people are dependent slaves. Also, the said circumstances are contributing to make the people more dependent on patronage and favors, thereby destroying the personal liberty and the exercise of a free will, are pushing the people into the ranks of slaves in spite of Constitution and laws.

When I succeed in proving, and establishing in expressed terms the existence of a common public enemy, being uncontrollable by Constitution and laws. I also beg to state, that it is quite indifferent to the said sovereign, what form of government is existent in a country, may this form be republican, monarchical or despotical, all these different forms are equally mere mockeries to him; because his proceedings under any form are of an indirect nature. Out of this very reason it also is quite indifferent to the said despot, whether he wields his scepter over Africans, Mongolians, Turks, Europeans or over American citizens, being sure to achieve his designs in every political situation.

And now I will further try, to exhibit the means by which the nefarious power has inaugurated the subjugation of the people, giving my ideas for what they are worth. The force of ideas is depending on the merits of the same.

The evil spirit, clothed with wealth and influence, has realized the establishment of his

nefarious government by the following achievements:

1st. By a bold and consequent ignoring and suppressing of such irrefutable truths, the publication of which would be in opposition with the interests and designs of the influential power, and by consigning these truths to silence and oblivion.

By dodging the people for the purpose of distracting the public attention and consideration from important domestic affairs and questions by way of making the people feverish and excited on public questions, trumped up and thrown in the way. As also by humbugging the people by party quarrels, in which the decisive points are ignored, and by enticing the people to dissatisfaction, lawlessness and public disorder, and further by creating public confusion, by defaming the Government and officials, by inaugurating revolutions and wars, as being the surest means of impoverishing the bulk of the people and of subjugating the same.

3d. By the rule of a blundering and sophistical system of taxation, benefiting the wealthy class in a high degree, and being unequal by way of necessity. I hold that the only possible way to levy taxes uniformly, as being in accordance with common sense, with justice, right and simplicity, is the way to levy the same on the owners and possessors of the net value of material property at a uniform percentage. The present mode of taxation, is to levy taxes on consumption and on personal wants, on objects of luxury, on habits and vices, on incomes, on the right to live in the society, and the right to perform work and business; as also on such material property which is burdened with debts, and which in fact does not belong to the possessor. By this mode of levying taxes on debts, the value of the poor man's property, being burdened with debts, is raised to an exorbitant figure, while the value of the property of wealthy parties, who are not in debt, is not raised at all.

4th. By defeating religiously, that is to say, by defeating the living with the wisest, purest and most perfect being in all human actions and relations. I hold that this defeat is achieved by teaching and idolizing certain theological doctrines and dogmas, being founded solely on human sentiments instead of human reason; and being declared to be the *bona fide* doctrines of religion, nay religion itself. I further hold that the idea of a living with God is perverted by the Church, in the idea of a living with the teachings of the Church, and that in consequence of this perversion, the teaching and analyzing of the laws of wisdom, virtue, morality, duty and habits, through enlightening the reason of man, and creating a living with God and a noble will, is considered by the Church as being secondary, or rather irrelevant to the promotion of a religious life.

5th. By demoralizing the public mind, that is to say, by causing a degradation of a reasonable, dutiful, noble and conscientious human living. I hold that this demoralization of char-



acter has been achieved by building up the present ruling system of public education; and that by the prevalence of this system, a moral education is evaded, because the system at present in vogue excludes the systematical teaching of the philosophy of wisdom, virtue, duty and habits; respectively, the laws, merits, and anal-yzation of the same, whereby it fails to create a wise and a noble will in man, which in return is bound to cause public enervation, selfishness, licentiousness, corruptness, viciousness, slavishness and poverty.

6th. By crowding the country with an unlimited number of foreign paupers, thereby unduly enhancing the competition, overstocking the markets, making products unsaleable, and reducing the prices of the same, as also ruining the general profitableness of work and business.

7th. By sustaining the rule of a false theory of money, by ignoring the existence of the irrefutable truth, or rather the mathematical certainty, that on a proper official investigation of the matter, the abolishment of taxation is bound to take place.

The formidableness of the chains with which the people are held in bondage, is owing to the fact that the people have not realized either the nature of the power of political influence, nor the proper way to restrain and defeat the same when misused; therefore it is of importance to mark the point that there exists in the relationship of citizens from one to another, a certain order which is regulated by the possession of property. This order is to the effect that all classes of citizens, from the wealthiest down to the very lowest, and each of them have their superiors in wealth and power, and that the subordinate parties, more or less are depending on their situations, work, business and expectations, on the favors and good will of their superiors; and more or less are living under the reign of terror.

Now, this subordinate position, and dependent state, is bearing heavily on the inclination and will of the said subordinate parties, to accommodate their superiors and benefactors in that way, so to live up as much as possible to their desires and will, especially creates in them an inclination to anticipate, join, flatter and to represent or to ignore all such ideas, views, designs, fancies and habits of these superior parties, irrespective to the merits of the same, or irrespective to the exceptions of these dispositions. At the head of these different classes stands the wealthiest class of citizens, like a general standing at the head of an army.

This relationship and general dependency of citizens, is the very source and power of influence. And is the cause that it is in the competency of this uncontrollable power to sweep away all obstacles which may be in the way of the personal interest of the wealthy class, as also has created in the main, all those deformities which are existing in the political situation of

the society in as far as they are to the detriment of the interests of the majority of the people.

Besides the erroneous policy which is observed towards foreign immigration, under the prevalence of the power of influence; and besides the numerous other ruling principles, being equally wrong and destructive, there is a particular case which deserves to be mentioned here for the purpose of showing the dangerousness of the situation of the public. It is for the sake of the future security of society, when I propose to denounce a public transaction by the consummation of which, in my opinion, thousands of gallant citizens, directly and indirectly, have been deprived of their hard earned property, amounting to many millions of dollars, to the personal advantage of speculators and other prominent parties, who sided with the same, and who neither morally nor legally had the least right to appropriate this property to themselves.

I allude to the settlement of the Mexican land titles in this State, in which a great number of the most prominent officials, legislators, lawyers, etc., were personally interested. And though I do not propose to fully discuss this matter. I wish to remark that I have given a great deal of thought to this question in the course of years, and I think that I am able to prove with mathematical certainty, that the Mexican claimants, respectively, the holders of the grants erroneously, or rather fraudulently, have succeeded in appropriating to themselves in silence, without any compromise, and without giving any consideration, the whole made value of the land which neither being owned nor possessed by them, and which could not accrue to them under the United States during the period when these grantees (in as far as their claims were concerned) being held foreign by the Government of the United States. By the foreign character of the grants, the said made value of the land during the said period reverted to the people of the United States, respectively, to the temporary occupants of the land; as by the sovereign policy of the Government, the private title to the same being temporarily vested in the sovereignty of the United States.

In face of these circumstances it happened that California, under the policy of the Government, has been colonized by the people of the United States, and that the fruit of this colonization has actually reverted to the colonists, but has been snatched away from them by Mexican grantees in their quality as such; by those parties who had been speculating in these grants.

I hold that these stated circumstances are founded on equity and facts, and that they could have been substantiated clearly in the halls of the courts, legislatures and Congress, and that there can be no question that the Constitution and laws were sufficiently competent to give authority to moral and legal justice and



right, to save the country from disgrace, and the whole class of those people being concerned in the case, from destruction and ruin.

I am satisfied, that in disposing of the case, the stated arguments and points which are decisive in the question, never have been brought to bear in a proper manner. And now, in order to show the general inefficiency of the Constitution and the illusive merits of the free election of public officers, as also the insufficiency or failure of the present public education, in respect to morality, virtue and duty, in face of the arbitrary rule of the power of influence, I cannot avoid to state, that in our time public outrages on morality, justice, duty and national dignity, are perpetrated in the presence of a liberal Constitution, and of the liberty of the press, as also in the presence of a hair-splitting intelligence of lawyers and judges, of self-elected Governors and Presidents, of Ministers, Congressmen, Legislators, orators, journalists, etc.

I have stated above, that the power of influence, which is inherent in the wealthy class of citizens, in its working, resembles the power which is exercised by a commander of an army, whose will and influence penetrates all successive grades down to the lowest drummer-boy. But it is to be added here, that in respect to the merits and character of both powers, there is a great difference between them. The power of a general is controlled by Constitution and laws, as also it is in the personal interest of this officer, to use the same to the benefit, honor and liberation of the country, whilst the power of influence of the wealthy class of people, is arbitrary and uncontrollable, and whilst it is not seldom alone in the personal material interest of this class to lead the country in disgrace, ruin and slavery, by way of perfidity and dodging. Out of this reason the natural power of influence when misused, is nefarious, and no respectable citizen ever will alligate with the same in such an eventuality.

Fellow Citizens, there cannot be any doubt, that in spite of all public intelligence, learning, statesmanship, and display of patriotism, the interests of the majority of the people, have often been grossly neglected and outraged, under the influence of the uncontrollable power of wealth, and in particular in such cases, in which the interests of the wealthy class of people in all countries were combined. There is no doubt that the national body always has been moving under painful convulsions, on account of the fact, that the people had not realized the true seats of the disease, nor the remedies which could have been applied.

But as great and awful as the sores and cancers may be, with which the national body is smitten, there exists a particular sore, which is secreted before the eyes of the people; there is a hidden cancer which is constantly gnawing at the marrow bones of the people. This hidden monster is so glaring and horrible, that

human language lacks expression to denote the same.

I allude to the existence of an erroneous theory of money, and to the universal rule of the same, in consequence of which the nations are cursed with the hydra of taxation, and I propose to show, that the high value which is placed upon gold and silver by the Government, is not at all adequate to the prices which these articles actually are worth. And further, I propose to show, that by a judicious legislation, the national money, in its various issues and constructions, is equally valid, valuable, practicable and safe, and that there is no possible danger of using the same in any form. And again, I propose to show, that in face of these undeniable facts, the maintenance of the present method of constructing money, respectively, the levying of taxes, is no less than offering insult to common sense.

The actions of man, either for weal or woe, have their natural consequences, but notwithstanding this, it is not in the province of any earthly power to direct at will, neither the fate of a nation, nor the fate of a single individual. In consideration of this, and in a sense of duty, say a duty which I would not violate for all that is dear to me; as also in face of the fact, that no citizen has delegated to the Constitution the right to use his common sense in adjudging public affairs, and to publish the results of his thinking, I will carry out my well intended design, as far as I am able to do, and even in case adversaries were as numerous as shingles are on the roof.

Truth (reality), is the very element which reigns in the spiritual world, and when established sufficiently clear, can be recognized by every sensible man. Truth never can be fully suppressed, it is invincible and cuts like a double edged sword, when judiciously used in the field of honor and publicity.

And now, by entering upon the work of performing a pioneer step beyond the boundary in which the ideas of the present age are moving, and in leaving the issue of a good cause to the rule of Divine Providence, I beg to submit to the careful consideration of my fellow-citizens, the following theory of money, regretting my want of ability, language and power, to present and to advance the subject in such perfection, manner and form, as the importance of the same deserves.

**Theory of that Certain Medium which is constructed out of particles of Gold or Silver, or out of Slips of Paper, known under the expression of "Money."**

1st. The medium known under the expression "money" is constructed out of particles

of gold or silver, or slips of paper, under the following procedure:

The Government endowed the said medium with the right to represent a certain value, as also with a *bona fide* right to be used for the purpose of making payments with the same, in the value of an object, and to such an amount as being expressed upon the face of the same.

The gold and silver which is used for the construction of money, has been delivered over to the Government in their natural state, by the owners of the same, and these metals are accepted by the Government at certain fixed prices or value, and after they have been coined, and endowed with the said value, as also with a *bona fide* payment quality, are returned, respectively, given in payment in the quality of money, to those parties who furnished the said metals in their natural state, and who parted with the material in its quality as such.

The slips of paper which are used for the construction of money, in the shape of promissory notes, like the metals, have been endowed by the Government with the right to represent the value which they bear on their face; which value consists in the value of supplies, services, and other kinds of property, which the nation has received for domestic purposes. Money is also endowed with a *bona fide* payment quality, and has been given in payment to those parties, who delivered over to the nation the said objects.

This constitutes the fact, that certain parties parted with their metals or other property, and received their payment in the medium called money, in which medium the value of their former property has been transferred, whereby the possessors of this medium have been made the legal owners of the value of the same.

2d. The medium money represents the value of such property, as the Government wanted to acquire for the common benefit of the society, by which acquisition the condition of the society is improved, and this improved state constitutes a permanent common property, belonging to the whole association, being equal to the amount of value for which money has been issued. The existent value remains the same, though the objects have changed.

3d. The medium money is transferable together with the value it contains, and is owned by the possessor of the same, and the possession of property is protected by the Constitution, which protection can be claimed by the owners of money, and is to be awarded to them by a proper legal proceeding.

4th. By the medium money thus created, valued, endowed, protected and circulated, the value of any kind of property coming up for sale and transfer, can be defined, measured, transferred and paid.

5th. It is perfectly indifferent to the merits of the said medium, whether it is called money, dollars, coin, greenbacks, legal tenders, prom-

issory notes, etc., as also it is indifferent to the destination of the same, whether it is constructed out of gold or silver, or out of paper, or any other suitable material.

6th. National money, irrespective to the time of issue and irrespective to the material out of which it is constructed, to all extent and purposes, *prima facie* and *bona fide*, stands for the payment of any property, and for the value of the same, being at issue; and the competency to realize this intent and purpose, is an attribute of the sovereign power of the land.

7th. National money is recognized by the Courts, and the payments made with the same are validated and protected by the said courts; that is to say, the Courts are bound to release the debtor from his debts, and to debar the creditor from all further claims upon a payment in money. This very circumstance actually shows, constitutes and proves, the national protection of the value, use and merits of money, and the legal security of the same.

8th. The medium money, in its quality of a material object, either consists in a piece of coined gold or silver, or in a slip of printed paper. These different material objects as such, have no legal value, nor have the same a *bona fide* payment quality.

9th. In the same manner, as a contract legally written on a paper, is valid, in the same manner, money legally issued in the shape of a coinage, or in shape of a printed paper, also is valid. But on the other hand, a contract is not valid, on account of the mere circumstances, that it has been written in a due form on a paper. In the same manner a coinage or a printed paper is not valid, on account of the mere circumstances, that it has been coined or printed.

10th. The medium "money" and the object "coin" commonly are regarded, as being one and the same object, but there exists a great difference between them. The Constitution gives power to the Government, to coin and to value money, but not to value gold and silver as market articles, wherefore the value of the medium "money" is permanent, and the value of gold and silver, either coined or uncoined is illusory.

11th. Coined money is subject to be used in two different qualities: In the first place in its quality of money, in this case all other issues of national money, either paper or metal, are standing for the payment at issue. In the second place, coined money, can be used in its quality and value of a coinage, in this case no *bona fide* legal payments in the value of the medium "money" can be made with the same, because the policy of the Government, to value gold and silver, as articles of trade is erroneous, and not compulsory, and because it cannot be shown, that by an abandonment of the present policy, the coined metal will retain the same value, for which that property in question has been disposed of.



12th. The method hitherto pursued by the Government in valuing money, consists in the erroneous procedure to value gold and silver in general, in their quality of articles of trade, for the sole benefit of the owners, permanently accepting the whole stock of these metals, whichever is delivered over to her, at certain fixed prices; and to coin money out of the same.

But this method is erroneous on account of the following reasons:

First—Because it cannot be shown, that this procedure is in conformity with the words and an enlightened intent of the people, expressed in the Constitution.

Second—Because it is highly detrimental to the interest of the nation, as these metals (in consideration of the insignificant want of them for domestic purposes), are not worth by far, the high value which is placed upon them by the Government, in taking incessantly the whole quantity offered to the same.

Fourth—Because the valuing of money, by means of placing upon this medium, the value of those supplies and services, as are wanted by the nation and are acquired by the same, from the owners of these objects, (at equitable prices, and as are improving the condition of the nation), relieves the nation from the necessity of collecting money, wanted for the defray of public expenditures.

13th. The medium "money" is the only object in existence, capable of representing *bona fide* an object in its value, respectively to define this value, and to make it practicable that *bona fide* payments in the value of any object can be made.

14th. The merits, quality, value and security of national money neither can be enhanced nor diminished by the manner of construction, nor by combination, nor by any other circumstance save the supreme power of the nation.

15th. Our Government, in conjunction with all foreign governments, committed the error to value metals, say gold and silver, in their quality as articles of trade, at such prices as these metals were worth by the sale of small quantities, wanted for domestic use; respectively, for money purposes, and in this valuation constructed a coinage out of the same, which she installed as the medium money. The respective governments erroneously held, that gold and silver money is more valuable and safe, than any other money, differently constructed. Not considering the fact, that a depreciation of the value of any special kind of money, could be prevented by way of prohibiting the arbitrary use of money, say by prohibiting the exclusion of paper money at pleasure; and again, not considering that the *bona fide* use of all description of national money could be realized and controlled by the supreme power of the land.

16th. The policy of the Government, permanently to accept at fixed prices for money

purposes, all gold and silver, which the owners and producers of these metals, choose to deliver over to her, establishes the fact, that the general market price of these metals, as also of the coinage, are stimulated, and are made fictitious as long as the policy lasts.

17th. The gold and silver coinage, as such, (though without an adequate real value, and without any possible particular value to the owners and possessors of money), had to be used for money, in want of any other reliable kind. In face of this necessity, it happened that the enormous amount of money issued for these metals, has been squandered, and that the immense stock of these metals has been saddled on the nation, and that the whole value of objects wanted by the nation for her own benefit and support, has been paid out for the acquisition of these useless metals.

18th. The same supreme power which adopted the present policy of constructing money out of gold and silver, is competent in every respect, to abandon this policy at will, and at any time, by the progress of reason, and in regard to this competency, the value of coined gold and silver, is illusory, and eventually, is subject to become almost valueless, when thrown upon the market for sale, while the money value, which is embodied in the same, as well as the value of paper money, is protected by the Constitution, which instrument guarantees the possession of property.

19th. The medium money has been issued, respectively, been given in payment by the Government for the full value of property, which the nation has received and contracted for, either for the value of gold and silver, or for the value of supplies and services. In face of this fact, respectively, (arguments which can be brought to bear in Courts), it must be held that the conclusion of contracts, made for the purpose of excluding payments in a certain defamed issue of national money, are illegal, null and void, on account of the fact, that such contracts are violating the rights of property; to which rights the universal indiscriminate use of all the different issues of money, essentially are belonging, because in a rule to set aside at option, the use of a certain issue of money, a depreciation of the value of the excluded kind of money it involved, and the value of property, which is deposited in this certain issue of money is destroyed, or taken away from the owner, without any process of law.

20th. The depreciation to which the value of paper money has been subjected, is not a proof of the demerits or impracticability of this kind of money, but is explained by the following circumstances:

First—It is evident that the Government, as such, misunderstood the idea of money, and in consequence thereof, erred in the way of realizing this idea properly; respectively, failed to enlighten the people on the subject.

Second—In a general public misconception



of the idea, and of the character of money, and in the universal prejudice of the people, supported and fostered by the satellites of the wealthy class of people, and by a studied ignoring of the question. The people did not conceive that the value and merits of money, are solely based on the will and authority of the supreme power of the land, say on the people of the United States, and that it is solely an attribute to this power, to rule this affair, and to endow an object at will with a value with a payment quality, and with the *bona fide* use, function and merits of the medium money; and that this power is subject to enlightenment and perfection.

Third—In the erroneous policy of the Government, to leave the indiscriminate use of the various issues of national money at the option of the people; respectively, in the failure to prohibit and to declare null and void, all acts of contracting and trading, calculated to exclude and to set aside the *bona fide* indiscriminate use of all descriptions of national money, and in particular the use of paper money.

Fourth—In the erroneous ruling of the Courts, being to that effect, as to legalize such contracts, made for the purpose, to exclude the *bona fide* use of all kinds of national money, in particular to exclude the use of paper money, thereby overawing the competency of the Government; respectively, giving (by implication) to private parties the authority to injure and to destroy the general legal value of a particular issue of money, and to set at naught the protection which the Constitution grants to those citizens, who are the owners and possessors of said description of money, and of the entire value of the same.

21st. The stipulation in a contract, calling for a payment in "coin" means a payment in money, because a *bona fide* payment in the value of gold and silver coin, as such, cannot be made; as this article does not contain a *bona fide* value. And again, as a stipulated payment in coin, in its value as a metal, does not amount to a payment in the value of money, nor to a valuable consideration, on account of the illusive value of this article, it may amount to an exchange of goods, but does not come up to a payment in the value of money.

22d. All national money, hitherto issued in "coin," has been erroneously paid out to the last dollar, for the acquiring of gold and silver, and on account of this fact, these costly articles have become a dead weight on the nation, and in case the Government should discontinue the use of these metals for the construction of money, and call in the coined money which is circulating, then the market value of the coin, would sink into insignificance, in as far these metals could not be exported to foreign countries.

23d. By carrying on the policy of issuing gold and silver money, the nation deprived her-

self of the means, to issue money for the value of public expenditures, and contracted the necessity, of collecting money by way of taxation, for effecting the payments of national expenses and wants.

24th. The policy of the Government, to stimulate and to screw the value of gold and silver, and to use these metals for money purposes, appearingly originated in an erroneous interpretation of the Constitution. This instrument, without prescribing the kinds of metal, to be used for money purposes, calls for "coining money," and for "valuing money." But as the sense of the expression "constructing," stands for both, for coining and printing, and as money is the declared object to be valued, and again as a wise and reasonable intent, must be acceded to the sense of the Constitution, it is to be held, that in face of those reasons and points, presented in this statement, the present method of constructing money out of gold and silver, is in contradiction with a judicious interpretation of the Constitution.

25th. Whilst the nation never received in fact, a fair consideration for the value she issued for the acquisition of gold and silver, she received a full equivalent for the value of every dollar she issued in paper money, for the value of received property, services, etc., by the latter receipts the condition of the nation is improved, and the amount of her property is enhanced.

26th. By a judicious introduction of paper money, the present issue of promissory notes, could be redeemed against an issue of paper money, without any possible injury and danger to the people, it would be very wrong and ruinous, to collect metallic money by way of taxation, for the purpose to redeem the said notes.

27th. It is a question, whether it would not be a judicious policy, to abolish the use of gold and silver money entirely, and to issue to the present holders of the same, the amount in paper money, by giving them credit for the coinage delivered over to the Government.

28th. Money neither is a public debt, such as is to be repaid, nor an incumbrance on the nation, but it is a liability of the nation, to protect to the owners the value, use and function of this medium, in consideration of the personal property they have given in exchange for the same. The various property, services, etc., for which money has been issued, respectively given in exchange, is contained in the society, and constitutes an improvement of the condition of the same, and is a counter balance of the money value being in circulation. Therefore the circulating amount of money, is a true barometer, of the public and private prosperity, the greater the amount, of the issued and circulating money, the greater is the general and individual prosperity of the country.

29th. The nation is like a working institution, for which citizens are working for pay. By which relation, both parties are benefitted,

and the indispensable medium "money" is created, which medium is a true and safe representation of value; and is to be used and to be disposed of at any time. And again, by the creation of money, effected in this way, the collection of this medium by way of levying taxes, is made dispensable.

30th. As already stated, the fearful depreciation of the value of paper money is caused by the circumstances, that the Government in her unenlightened state, failed to prohibit, respectively to annul, say to declare null and void, all contracting and trading, by which the *bona fide* indiscriminate use of all kinds and issues of national money is excluded.

31st. Money can be issued in unlimited sums, without any injury to the nation, nor to the value of this medium, nor without any disadvantage or danger whatever, provided that this issue is effected, against the receipt of the full value of property, service, work, etc., being wanted and contracted for by the Government, at prices fixed by competition and law. The crime of counterfeiting money, as also any improper issue of money for objects not wanted by the nation, or against prices not fixed by competition and law, would benefit unjustly certain parties, whilst such benefit would be denied to other citizens. Such eventualities and crimes are to be met and to be hindered by stringent and severe laws and measures, and by the unresisting power of a judicious influence.

32d. An introduction of paper money affords the means of paying off the public debt when due. This payment in return, would throw on the market an enormous capital, which money likely would seek investment, principally in land and real estate, or in loans to citizens, and reduce the rents and rates of interest, and enhance the consumption and the stock of work for the benefit of the majority of the people.

33d As already shown, an introduction of paper money would be bound to raise the situation of the nation in her majority, and would naturally cause the abolishment of taxation, thereby relieving the people from the most crushing burden. This event would cause such a common prosperity, as is unknown in the history, say family happiness, liveliness in business and trade, a greater independence from capitalists and landlords, a greater relief from slavery and drudgery, from extreme want and poverty. And again, it would cause a reformation in the principles of public education, in respect to the moral character of the people, as the wealthy class would have less interest in the universal degrading and helplessness of the bulk of the people, but find a greater security and family happiness in a more elevated state of the moral character of the people, and in a greater universal and true life with God (religious). ~~not~~

34th. Public officers are chosen from the

people, and are sharing the stable and unchallenged ideas, misconceptions and prejudices of the same. But these officers are not at liberty to ignore and leave alone premeditatedly, such new ideas as are turning up and as are showing the existence of such erroneous ruling principles, as are injuring the interests and property of the people in their majority. These public officers are bound to give a hearing to such communications as officially are made to them, and to pay proper attention to the same, respectively to investigate the matters advanced, eventually to cause proper legislation, or to amend the Constitution, as the case may be.

37th. The very rock on which tyranny has fastened the chains of political slavery, is the stability which is contained in the ignorance, habits, misconceptions and prejudices of the people. This stability however, fortunately is of a very untenable nature, as it is overreached by human self-love and reason, and by the love of property, as also by the natural love of right, and the aversion to wrong, is overreached by the human susceptibility of enlightenment, and by the power of truth. Therefore it is not in the competency of an unprincipled and tyrannical power of influence, nor in the power of the eye-servants, and satellites of the same; respectively, in the power of journalists, politicians and dispensators of publicity nor in the power of any machination, to check the progress of reason and humanity for any given time, nor to thwart the power of giving publicity to truth, where this power is properly resorted to.

38th. It is conclusively shown, that the public opinion is to that effect, that the use of gold and silver is indispensable for the construction of money, is based on erroneous stable views and prejudices. And again, it is shown that a simple prohibition of concluding specific contracts, respectively the annulling of the same, makes an exclusion of paper money, and a depreciation of the value of the same, impossible.

The whole property of the nation (private as well as public), is liable for the payment of the public debt; and a repudiation in whatever form it may be, (respectively, an intervention with the execution of forced sales), is a breach of contract, prohibited by the Constitution, which argument and plea is liable to be forced on the Courts.

## ON TAXATION.

Fellow citizens: The arguments advanced in the foregoing delivery, are going to show, that national money always has been issued by the Government for the mere purpose of putting into the hands of the people, this medium in an attitude of gold and silver, erroneously be-



believing that the safety and value of this important medium, were solely depending on the intrinsic merits of these metals as such. It is further shown in the said statement, that no benefit whatever could derive, nor actually derived from the policy adhered to by the Government, because it is, and always had been in the full competency of the Government, to effect the equal use of all descriptions of national money, irrespective to the mode of construction, and that the market value of gold and silver coin, as such, and particularly of the former, being bound to sink into insignificance when thrown upon the market, on account of the enormous stock which had been furnished, and which never could be used up for domestic purposes at any corresponding price. And again, the said statement is going to prove that the Government did not realize the fact, that the only correct and equitable way to value money, would be the method of placing in the same, the value of such objects as are wanted and received by the nation or the public benefit; she did not realize that money in this valuation, being the exclusive object fit to be used for defraying the expenses of the national household.

Now, when it is a fact, that the Government did not realize the correct idea of money, and clung to the ancient method in constructing the same, then she had no other alternative, to collect money, in order to obtain the means to carry on the administration of the country, then by way of levying taxes.

And here I beg to submit my humble opinion, that in the realization of this problem, the Government again failed her purpose, on account of the circumstance, that all arguments and truths bearing on the question, had not been exhaustively raised and brought to bear, and I expect to prove the correctness of my opinion by giving the following reasons:

I think the Government did not realize, that in fact there exist only one single object on which taxes can be levied with judiciousness and propriety, when the just interests of the great majority of the people shall be taken in consideration, and as the value of money which is wanted, only can be taken from the value of a material property. This object is the value of material property, in as far as it is owned by the possessor of the object.

This being a fact, then the Government erred by making liable for the payment of taxes, those owners and possessors of such property, the value of which partly being owned by another party, than the owner and possessor of the materiality of said property. The policy, or rather the presumption of the Government, that the owners of the materiality or a property, should be held as being the owner of the value of the same, is wrong, and this ground is not properly taken, which will be shown afterwards.

And again, the Government erred by estab-

lishing various indirect and personal taxes, like consumption, license, luxury, poll-tax, custom house duties, etc. That is to say, the Government levied taxes on citizens, disregarding the possession of an adequate property; taxes on citizens in their quality as men and consumers, taxes on the exercise of a free will, on the personal liberty, to take avail of the privileges and benefits of the society; taxes on the gratification of customs, habits and vices, on virtues, abilities and activity, on the performance of business and work, on the individual means, designs and exertions, to acquire property and money, utterly disregarding the value of property which might be gained by the enterprises; taxes on the liberty to enjoy and to expend money to the benefit of other citizens.

The levying of these indirect and personal taxes, is erroneous and wrong, out of the following reasons:

First—Because these taxes are not in the just interest of the great majority of the people, they are impeding the general prosperity, and checking the consume, business and trade.

Second—Because the same are not levied on the value of material property which the taxpayers own, but on presumptions, and on circumstances, which are not in the control of any man.

Third—Because these taxes cannot be levied uniformly, as the individual means and situations, by which property can be acquired, are quite different.

Fourth—Because the people have not detailed to the Constitution, in expressed terms, the power to the Government to make their personal life, their intentions, enterprises and circumstances their means and exertions to acquire property to objects of taxation.

Fifth—Because by an interpretation of the sense of the Constitution, a wise, just and reasonable interest, must be conceded to the framers of the same.

The most important ruling principles, are based on existing public sentiments, they are recognized as being perfect, and never are publicly and properly scrutinized, however, they cannot stand the test of sober and logical reasoning.

I do not hesitate to assert, that in regard to the indicating and assessing of taxable property, the very owners of this property are the parties competent to indicate this property and to assess the value of the same; and that there is sufficient power in the Government to induce these owners to make such correct statements, as would answer the purpose, by means of giving proper but stringent laws, similar to those, regulating the collection of custom-house duties, and which are threatening smuggling to the extent of confiscation of the property.

This being a fact, and in the general interest of the people, then it must be asserted, that the



policy of the Government to commission an officer with indicating and assessing taxable property, is wrong in principle, and experience virtually teaches that assessments made under this policy, are constantly misleading to all sorts of blunders, and to the greatest injuries and oppressions, naturally falling on the bulk of the people.

For instance, it is a fact, that assessors did not make it their rule to assess the value of a property to the owners of this value, but to the possessor and owner of the *materiality* of the property, and the assessors have been sustained by the Courts, these Courts taking the ground of expediency. Under this confused situation, the taxes of the whole value of a property, possessed, but not fully owned by the party charged with the payment of the same, are placed on the sole account of this possessor, and the partial owner of the value, say the creditor, escapes taxation at all. After some reflection, the blundering character of this proceedings, will become evident to any man. It is clear, that the owner of the materiality of a property, say of merchandise, real estate, etc., is forced to pay taxes for the entire value of the same, though this value actually is owned in the whole or in part by the creditor.

The exercise of this stable principle (based on an erroneous public sentiment), is an outrage on the property of almost every citizen, and is unconstitutional out of the following reasons:

First—Because the legislature has no power to abstract a sum of money from parties who do not owe money, without a due process of law. A due process of law means a legal proceeding in which the proper and deciding arguments are pleaded by the parties and adjudged by the Courts.

Second—Because this mode of assessment involves a gross inequality in the payment of taxes. For instance, a party owns a property worth \$10,000, and is owing on this value to his creditors, the sum of \$8,000, then he is compelled to pay a tax on the sum of \$10,000; whilst another party, who also owns a property worth \$10,000, which is not incumbered with debts, say which value exclusively belongs to himself, has to pay no more taxes than for the value of \$10,000; consequently the poor man, who merely owns a property to the amount of \$2,000, has to pay the same amount of taxes as a citizen has who is worth \$10,000. This constitutes the fact that in all such cases taxation is unequal, and therefore, unconstitutional, null and void, and cannot be enforced by the Courts, when those arguments bearing on the point are pleaded in the suits. But here may be the proper place to observe that defective pleadings in suits like these, never meet with public censure nor are discussed.

A stringent and exclusive property tax, is not only most natural and simple, but also a very practical one incurring the least expenses, and is in the just interest of the immense ma-

jority of citizens, as this majority in its individuality possesses the least property, consequently would have to pay the least amount of taxes. And again, a laboring man, who had not been able to accumulate in the society, a greater net value than \$200, easily could pay \$2, or \$4 a year, when this would be his whole burden of taxation, whilst another citizen who had been more fortunate in the society, having succeeded to accumulate a net property value of \$200,000, (which is protected to him), could pay with the same facility and justice \$2000, or \$4000 a year.

It would be interesting to know what amount of taxes, the great majority of the people in its individuality now has to pay, by the various Government, State and County taxes, duties, licenses, personal and indirect taxes. Merely the saving of the enormous expenses for the collection of taxes, would reduce the rate of taxation considerably. As also there can be no doubt, that the amount of taxable property when fairly brought to light, would be of such an enormity, that by the payment of quite an insignificant percentage a year, all taxes could be paid, and by still adding a small percentage, the whole national debt could be paid off in not distant a time.

Fellow Citizens: I am satisfied, and think that I have sufficiently shown, that the cardinal, stable and decided principles of our Government, on which, in the main point, your welfare, prosperity and happiness is based, are wrong to the score, and that the decisive arguments and points, on the consideration of which, a reformation is depending, are failing to obtain a hearing and publicity. And again, I am satisfied, that our situation is not worse, than it is in any other foreign nation, as also that in face of this situation, not alone here, but everywhere, the most intelligent, learned and distinguished statesmen, the representatives of the nations, the judges, lawyers, journalists and other public leaders, more or less are standing by in silence and with sealed lips, not venturing to touch the secret sores, with which the political body is smitten; not venturing to point or to raise in the least, such delicate arguments and facts, as are not familiar to the misled and bewildered people and as are not demanded by the same, in expressed terms. Nay, it sometimes would appear, that all these distinguished and prominent parties, more or less, had sold out or relinquished the use of their common sense, their intellect and honest judgment.

But here I wish not to be misunderstood. It is not my opinion that all these prominent parties are as bad, as journalists and politicians constantly are endeavoring to represent them, these journalists and other parties are the greatest wights themselves, and mainly are defaming and assaulting the character of officials, because they know that they can do so with impunity, in face of the influential power

because they can make capital for themselves by their vociferous course, and gain the confidence and support of the deluded, bewildered and fanaticated people. In the contrary, I am satisfied, and, will show that those officials which are chosen by the people themselves, and taken from the body of the nation, are as good and meritorious, as ever could be expected under the prevailing circumstances. The said parties merely are sharing the virtues, merits, misconceptions, feebleness, dependency and terror of the bulk of the people.

Is is not a fact that in general, people in our time, rather prefer to bear in silence the greatest wrongs and oppression, than earnestly to oppose, and to offend the erroneous and terrified sentiments of the people, than to offend and to oppose the views, arguments, ideas and sophistics, of the overwhelming power of influence, when decidedly advanced. Is it not a fact, that the people are submitting to the rule of a most unreasonable theory of money, respectively to the discriminate use of the different issues of national money, and to an utterly wrong and ruinous mode of taxation, to the avoidable depreciation of the value of money and national securities, are submitting to the over stocking of the markets, the enhancement of competition, to the reduction of the rates of wages, gains, and profits effected by hordes of foreign immigrants and paupers, submitting to the double dealing and play of journalists, to the nominations of improper characters for public officers; submitting to the entirely failing system of public education; and thereby to the degradation of the moral and religious character of the people; to the systematical impoverishment and enslavement of the same by submitting to unprincipled laws, and indistinct and unexplained laws, working to the benefit of lawyers and other parties, sucking the life blood out of the poor, helpless and bewildered people, ignoring wise and simple forms, ruling in other countries, and adhering to the nefarious system of recording. Are patriotic citizens not left alone, whilst people are siding with hypocrisy and indifferentism, and with the misled and terrified public sentiment.

But what will become of the situation of our nation, when her present course is not checked, when the systematical impoverishment, and the demoralizing of the character of the people, is not stopped? What in particular will become out of our country and State, when by the stupefaction of honest and learned patriots, by the double dealing of journalists, by the stable, erroneous and perfidiously misled, terrorized public sentiment, by the ignored and suppressed pleadings, of such truth, on which the fate of the public situation is depending? What will become of our country and State, when the prices of labor, and the gains and profits on business and trade, will become reduced to a pittance, and the number of working hours unlimited, when the people will be chased from

one place to another by a crushing competition, stimulated by the payment of licenses, and other personal taxes and duties? What will become, in particular of California, when (perhaps not in a very distant time), at almost every corner of our streets, lives a Chinese grocer, in every butcher shop, a Chinese butcher, when more or less every bootmaker, cigarmaker, tradesmen and laborer, is a Chinaman, or when those American citizens, now engaged in these various, presently well paying occupations, who cannot leave the then doomed country, will be compelled to live like Chinamen, to clothe in rags and to feed on rice and fish like them? This situation may do well enough for the wealthy class of citizens, and for land and real estate owners, to which class, most, if not all prominent public officers, legislators, etc., are belonging, but what will become of the great majority of the people?

When decided and energetic national proceedings, based upon popular sentiments, are not supported by equitable and wise principles, then these proceedings are not a benefit, but a curse to the country.

Fellow citizens! There is no other deliverance from the public calamities, than in the proceeding to inaugurate a fundamental reformation, but the national Government is the proper party which should perform this work.

Under this impression I have deemed it my duty to prepare the present pamphlet, and to send the same to the members of the Cabinet, to the members of Congress, to the Governors and other prominent parties, urging an official investigation of the raised public questions and matters, and have no reason to presume that my humble solicitation will meet with any opposition.

However, as I have been left without advice in similar cases, though I had mailed the matter properly, and as my personal situation is in that way, as not being able to learn the result of my feeble endeavors, I will give more publicity to this pamphlet, when I should deem it proper, and then leave the work in your own hands and to Divine Providence.

But my work would merely be done half-way when I could not show the practicability of proceeding the way, and I may be expected, to give my ideas on this subject, wherefore I will not fail to give my humble opinion in the following statement.

The very stronghold of the common enemy, say the power of influence, is the unenlightened state of the public mind, the stability of erroneous popular views, sentiments and prejudices: the power to oppress and to thwart the introduction and pleading of proper arguments, as also the entire absence of an organized independent power, able to urge and to proceed in the matter. In face of these circumstances, the very method to fight the said enemy, is to create an independent power, to



seize the sword of truth, and to carry the combat into the field of publicity.

However, it would not be wise to declare war against the various inimical principles at once. It might be the best plan to begin the combat with the most obnoxious ones. The most obnoxious and destructive principles being in vogue, consist :

First—In the efforts of the Government to realize the idea, that gold and silver ought to be used for the construction of money, and that the indiscriminate use of the various issues of national money, ought to be established. This principle of the Government means the existence of taxation.

Second—In the realization of the Government idea, to tolerate and to promote the *bona fide* immigration of foreign paupers. This principle mainly means, benefiting possessors and speculators in land and real estate on the one side, and slavery of the masses on the other side.

I think the reformation of these two government principles ought to be the first object to be aimed at; and a movement like this, supported by the clearest reason, cannot fail to create universal interest.

In as far as I am able to suggest, the realization of this plan, could be effected, by way of drawing up in clearness and brevity, and in due form, a petition to the President of the United States, or to Congress, stating and explaining the erroneoussness and destructiveness of the ruling principles, and soliciting an official investigation of the matter, as also an early communication; respectively, soliciting to show cause, in face of the stated arguments and facts viz :

1st. Why national money should not be issued merely for the value of the expenditures of the Government?

2d. Why the conclusion of specific contracts should not be prohibited entirely; respectively, be declared null and void, by a special law?

3d. Why the free and indiscriminate use of all the various issues of national money to the full amount of the denominations of the same, for making payments, should not be completely protected by a special law?

4th Why the people in their majority should not be protected in their prosperity, property, work, business, privileges, rights, profits and gains, against the interference and encroachments of foreign people immigrating to this country?

This petition would have to be presented officially to the President and to Congress, and in case a desired result could not be obtained in this way, then this document should be printed in several hundred thousands of copies, and be distributed all over the country, perhaps after the manner, in which theological societies are publishing their small tracts, and afterwards the matter should be held up be-

fore the minds of the people, in judicious and effective manners and forms, until the truth had become the property of the whole people, enabling them to control the nominations and elections.

Quite as easy, practical and simple, as the printing and publishing of this pamphlet, would be the manner in which the necessary funds could be raised. Here would have to be taken in account, the prevailing terrified sentiment of the people, the personal interestedness of most of the prominent public officers, legislators, etc., and the primary isolatedness of the movement, and the necessity of creating a power, independent from the power of influence.

In order to realize this problem, a brief statement of the contents of said petition, could be drawn up and printed, and successively be distributed in the various districts, setting forth the self-organization of an independent board of publishers, and with the understanding, that a pair of trustworthy citizens, (provided with a properly constructed and sealed box) would be commissioned to call around for the purpose, of giving citizens an opportunity to deposit in the said box, any sum, and even the very smallest piece of money, just as their temper might dictate, without being required in the least, to give their names, or to expose themselves personally; and further, with the understanding, that the necessary use and appliance of this money, should publicly be accounted for. Eventually it had to be stated, that due account would be taken to indemnify such losses, as might personally be sustained by those parties, engaged in the business.

In order to realize this purpose, a few patriotic citizens could form themselves in their own authority, and without any other procedure, under the supervisorship of the popular sentiment, in the said board of publishers, declining any undesirable or suspicious assistance from journalists, or any other prominent or influential parties.

There is neither any eccentricity nor impracticability in the realization of this plan, and experience teaches, that at all times, many new undertakings and movements, of far less importance and interest, have been commenced on much lower scales, and have resulted in great consequences.

The Apostles, in their time, when engaged in the reformation of the Church, had to contend with quite a distempered people, adoring literal traditions, longing for signs and wonders; moreover, clinging to a horribly low idea of the deity, and mostly had at stake spiritual interests. The reformers in our time have to contend with quite a material people, living in undisturbed misconceptions, captured in erroneous sentiments and undisturbed prejudices, fostered by a stable bewildering attitude of the press and of political parties; but they have the advantage of operating in the pres-



ence of a highly cultivated intelligence, and of a sober and logical reasoning, and in aiming material purposes. The people in our time are in that way, as to have no scruple in assuming an air of devotion, towards those main principles, on which State and Church now are based, in order to accommodate the popular sentiment, and to suit the views of their influential patrons, but there is no sincerity in this devotion; the people are going where money is visible. It is generally felt, that the present forms and principles have outlived their usefulness, and that the present public situation, does not come up to the demands of the advanced reason and public justice.

In the foregoing statement I have tried to show, and it is not to be left out of view, that there exists in the conduct of journalists and other leading parties, a stable practice, to utterly avoid, to ignore and to bury into silence and mystery, all those delicate arguments and truths, unknown to the people, on which those nefarious and main principles are resting, which (universally) on the one side, constitute the basis of an unjust prosperity and master-ship of the minor wealthy class of people, and on the other side, the decay, ruin and subjugation of the major, middle and poor class of people.

In order to comprehend in full the extent of this nefarious situation, we have to consider, that as the matter stands, it is in the full competency of the power of influence to control

the knowledge and sentiments of the entire people, either by way of their ignorance and selfishness, or by way of terry. And again, we have to consider, that journalists and other leading parties are living in the same dependency, under the same control, and that a candid and uncompromising attitude of the said parties, would draw upon them the hate of their patrons, as perhaps also the wild sentiments of the people, threatening their personal ruin, to which martyrdom, people are seldom prepared, even when it is merely feared in cowardice.

But happily for the good cause, human power and human invention, is not strong enough to contend with the arm of Providence, not strong enough, to thwart its designs and sovereign rule, respectively, to check the progress of reason.

Truth (reality) is palpable in its nature, it can be recognized by human reason, is irresistible in its course, when honestly and properly advanced, and when it has gained space in the field of publicity. And again, truth is irresistible in a time, when public confidence is badly shaken; when the people's measure of oppression, misery, misleadings and disappointments is full; as also in a time when the ball of fate has fallen into the easy reach of almost every honest and patriotic citizen, and when there is intelligence and wisdom enough to put it in motion.

ALBERTUS MEYER.





MOTTO.

Wherever you find honesty and truth stand by it, and do not let your just personal interests be buried in silence and oblivion, nor be overcome by the noise of political humbug, however sensational it may be. Study the secreted nature of political slavery.





MEMORIAL ADDRESS

ON THE

LIFE AND CHARACTER

OF

OLIVER PERRY MORTON,

DELIVERED IN

THE UNITED STATES SENATE

BY

HON. NEWTON BOOTH,

JANUARY 17, 1878.

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WASHINGTON.

1878.



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# MEMORIAL ADDRESS

OF

## HON. NEWTON BOOTH.

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The Senate having under consideration the resolutions in relation to the death of Hon. O. P. Morton, late a Senator from the State of Indiana—

Mr. BOOTH said:

Mr. PRESIDENT: To epitomize the life and character of OLIVER PERRY MORTON in the few moments devoted to these observances is impossible to mortal utterance. The stalwart proportions of his living presence are best realized by the void his death has made.

But yesterday he was one of us, of like clay and passions. The echoes of his voice have scarcely died in this Chamber. To-day he is as far from us as Demosthenes or Abraham, or the generations that perished before the flood.

Less than most men intellectually his equals does he need the voice of eulogy. The clearness of his purposes, the boldness of his opinions, his tireless activity, his indomitable will, have impressed "the very age and body of the time." His life was a force which cannot die.

That fireside criticism which dwells apart in the seclusion of its own self-importance and would not soil its dainty fingers by contact with affairs, which believes government is a science as exact as mathematics, that human nature is plastic as clay and cold as marble, may dwarf his image in the penny mirror it holds up to the universe and in which the only colossal figure it beholds is the reflection of itself; but he has made his own place in history "safe 'gainst the tooth of time and rature of oblivion."

He lived in an heroic age—this age—an age so great that the distance of intervening centuries will be necessary to measure its heroism, its achievements, and its sacrifices.

We, as Americans, must be excusable for believing, we should be inexcusable if we did not believe, that no political question of graver consequence to all succeeding time was ever confronted by any people than that which culminated in our civil war. History will record that the war was the inevitable result of an irrepressible conflict of moral forces, for which peace had no arbitrament. MORTON's life was cast in a State where this conflict of opinion was eager, passionate, and doubtful. He was at the meeting of the currents in the circling of the maelstrom. What to others was a conviction, a sentiment, to him became an inspiration and a passion. He was intensely American. For his large nature, and for his great ambition too, the continent was none

too wide. That his country should play a subordinate part in human affairs never entered his imagination to conceive. He would have enlarged the bounds of destiny to give it scope and amplitude. The sentiment that this is a "nation, one, indivisible, indestructible," so permeated his intellect that any other seemed political profanation and sacrilege. With him this was not a theory of construction, but a source and center; not an abstraction, but living faith. Not Webster has expressed his faith with more massive strength nor Baker with more impassionate fervor.

No man had an earlier or clearer apprehension of the magnitude of the war on whose verge we stood and the tremendous issues it involved. Of Titan mold, near to nature, elemental powers were his familiars. He had an instinctive sense of the awful forces that are unleashed by war. He knew that in the air, so still it would not stir the floating down, the fury of the tempest slept.

In the halcyon days, amid delusive promises of peace, he saw that war was inevitable, and rose to the supreme height of the occasion. In a speech on the 22d of November, 1860, which rang through the country like a call to arms, he said:

Seven years is but a day in the life-time of a nation, and I would rather come out of a struggle at the end of that time defeated in arms, conceding independence to successful revolution, than to purchase present peace by the concession of a principle that must inevitably explode this nation into small dishonored fragments.

He blinked nothing, concealed nothing. He knew the uncertainties of war, its dread sacrifices, and declared that all these, though followed by defeat, were better than inaction or the compromise of a principle he deemed essential to the existence of any republic on this continent.

This was at once his confession of political faith, and the key-note of his character. In the cause he championed, he would have dared fate itself to the lists, and matched his will against the courses of the stars.

There is neither time nor necessity to trace his career. To leave out MORRIS and his influence would be to rewrite the history of this country for the past eighteen years, and to modify it for all time to come. In the great struggle on which the existence of the Union was staked, he held the central fort. No living man can tell what the result would have been if he had not been where and what he was.

In character, his will dominated his intellect, great as that was. He seemed incapable of indecision. To resolve was to leave doubt behind. Thought, resolution, action, were coinstant.

As a debater, he was an athlete, trained down to pure muscle. In speech, careless of the graces of oratory and polish of style, his earnestness enchained attention, his directness carried conviction, and there was a natural symmetry in the strength of his statement above the reach of art.

He was a partisan; instinct and experience taught him that organization was essential to the triumph of any political principle or the successful administration of a popular government. He was a born leader, conscious of his power and jealous of his right to lead. He was ambitious; but blessed is the memory of him whose ambition is at one with the best aspirations of humanity,



whose death is a loss to the weak, and whose grave is wet with the tears of the humble and the despised.

Large-brained, large-framed, and brawny-muscled, his vigorous health, freedom of motion, physical independence, manly presence, were his joy and pride, and a part of that full endowment of mind and body which gave him commanding rank. But when at life's meridian he was stricken with the cruel paralysis from which he was never to recover he accepted his lot without repining. What to another would have been a warning to quit active service and an excuse for ease and rest to him was the occasion of increased exertion and mental activity. The broken sword only made the combat closer.

When the fatal symptoms of his malady appeared some months before his death, he said to a friend that he realized the end had come, but he felt his career was incomplete, his life-work not finished. Perhaps he felt, too, that death was stepping between him and the great prize of his personal ambition. He knew the night was settling on the home of which his love was the day-spring.

From that time the American people watched the wasting sands of his life and counted his failing pulse. He fought death as an equal for every inch of time, until, "worn out," worn out by long suffering and hard conflict, he yielded to the conqueror of all.

However long expected, the death of one we honor or love comes at last as a shock. No preparation can take away its final suddenness. There is not a precinct in all this broad land where MORTON's death was not felt. The nation was bereaved. His State was his chief mourner. Political friends and opponents vied with each other to honor his memory. A hundred thousand men, women, and children took a last look at his face, softened and refined by death, every trace of suffering, every mark of conflict gone. On a chill November afternoon a vast concourse followed him to the grave. The shades of night were falling when the last rite was spoken and the great crowd dispersed, leaving him alone with the dead.

There will be music and song, revelry and mirth. "The seasons in their bright round will come and go; hope, and joy, and great ambition will rise up as they have risen." Generations will pass on the swift flight of years. Battle-storms will smite the earth, peace smile upon it, plenty crown it, love bless it. History will write great chapters in the book of time. He will come no more. His life is "blended with the mysterious tide which bears upon its current" events, institutions, empire, in the awful sweep of destiny. Nor praise nor censure, nor love nor hate, "nothing can touch him further."















3A

# SPEECH

OF

HON. ELIJAH NICHOLS,

ON THE

REMOVAL OF THE CAPITAL

**FROM BENICIA,**

MARCH 6, 1854.

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SAN FRANCISCO:  
PRINTED AT THE GOLDEN ERA OFFICE,  
1854.



## SPEECH OF HON. ELIJAH NICHOLS.

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MR. SPEAKER :

Though many speeches have been delivered on this vexed subject, yet all present the same train of argument, and contain the same objections, either to a removal from, or locating the Capital at, Benicia. The whole subject has, indeed, been well-nigh exhausted. The questions of position, health, a saving to the Treasury of mileage, the greater security of State Archives deposited in fire-proof buildings and vaults, with all the rest of a similar nature, are mere negative assertions, and need only be named to be refuted. Because, whenever and wherever the Capital shall be *permanently* located, then and there will all these assuredly follow ; and it is only because the seat of Government is *not* at Sacramento that they are now advanced as objections to Benecia. Let us examine the various papers and communications on the Clerk's table, emanating from the municipal authorities of both these cities. They have been, I am well aware, uncourteously refused a *second* reading ; but as all were present at the *first*, I deem them legitimate sources, from which my argument may be derived, and upon which my reasoning may be based. In the first place : you have the liberal offer, upon the part of Benicia, of a a commodious building, (already tested) possessing every practical utility and convenience for transacting public<sup>2</sup> business, and free of charge, *forever*. The tender of Sacramento is for *one* year only ; and many acquainted both with the present locality, and construction of her *anticipated* State House, unite in giving the preference to that of Benicia ; (the report of the majority to the contrary notwithstanding) or, at least, pronounce it equal in every respect. Here then will be an expense incurred at the very onset, *after* the *first* session shall have transpired. And although according to *promise* all expenditure for removal and the like, *must* devolve upon the Sacramentans ; yet do we not all know how States have been, and are, continually mulcted in large sums in direct violation and wanton defiance of such pledges as these ; no matter from whatever immaculate body they may proceed ? Why, *Relief Bills* upon Relief Bills, literally pour in, long after the subject has been finally disposed of,—and extensive appropriations insidiously presented and passed—contrive somehow in the end to foot up a pretty startling equivalent for so much vaunted liberality and seeming generosity. Again : Sacramento gives you a fire-proof building with vault, as a more secure depository for the State papers, and accommodation for its officers. Yet Benicia prof-



fers the very same for a like worthy purpose ; and in addition, I am instructed to say that its good citizens are not only willing to donate to the State, land sufficient for the erection of all buildings necessary to public purposes, but that there will remain enough over, *after* such selection, to form a Public Square, or full sized city lots, perhaps both, all of which may be disposed of as the State may deem best, and shall remain her property forever.

This exceeds not only the proffers of Sacramento, but in generous profusion has never been equalled by any city under the sun, to its Commonwealth. And, Sir, its unparalleled liberality makes it *binding* on us to vote for remaining where we are; for we cannot oppose the measure by refusing, *in addition*, this touching appeal to preserve their existence as a city, without rendering ourselves liable to the charge of most reckless extravagance. With the annual message of his Excellency the Governor, breathing the very spirit of economy throughout every line—with positive instructions from all our constituents, imploring us to retrench the State expenses—and with the unanimous voice of this House so nobly responding in its earliest deliberations, by recording its *intention* to perform this arduous, and *hitherto* unattained duty most faithfully. With all these powerful incentives to arouse our endeavors in establishing universal economy throughout every department, during our term of legislation at least, it would, oh! it would indeed, be a crying shame and a most painful exhibition of vacillating purpose, at this, the second step in our promising career, to rush headlong into unpardonable extravagance by incurring this unnecessary and humiliating obligation !

The grand objection, however, disguise it as you will, seems to be that of discomfort, inconvenience, and want of accommodation, combined with all their various meanings. And it is certainly a most unbecoming one. Why, to hear Hon. gentlemen declaim, one would really suppose that here, in this golden clime, every appliance of comfort, ease and delicacy had been enjoyed through every period of its existence up to the present hour ; and that every Hon. member within sound of my voice had been participators therein. Yet, Sir, we *know* the contrary. All feel, by bitter experience, that every one *has* been a man of sorrow and acquainted with privations. Then, if during many long and weary days we have toiled on without any shadow of comfort to cheer or pleasing remembrance to console, and that, too, when our *minor* interests were alone at stake, without one murmur or thought of self—shall we now when the greater interests of our State are involved, and the rise or fall of a city depends on our decision ;—shall we now for the first time clamour against the absence of mere animal superfluities, once regarded as even unnecessary, much less esteemed essential ? No, Sir ! Inured to personal sacrifice in every possible aggravated feature, it would indeed be unseemly and belying the true California element in our nature, here and at this hour to advance the foregoing as serious objections to any measure of State welfare. For could a magician rise upon this floor, and with one stroke of his spirit wand, trace upon the vacant spot behind your chair (Hon. Chas. S. Fairfax, of Virginia, Speaker of

this House) the California past of most all of us, I feel sure that however strongly we might desire *not* to recognise the picture, yet it would prove perhaps not only a wholesome lesson, but also in its contemplation might possibly arouse the voice of reason and returning wisdom. Let us see. As I live, even while I gaze—lo! faces, and manly ones, appear to which even customary ablutions were a luxury and improving blessing! Forms, whose weary limbs had not reposed for many a day, but on the bosom of mother earth for their only couch, and with the canopy of Heaven as their only covering, frames whose only sustenance after hours of toil and fatigue, had been the immortal *slapjack*, then, oh, rare and delicious morsel! And we should behold eyes, gazing into our own, to whose straining vision, chairs, tables, and beds, with all other incidental comforts, would have indeed seemed mere phantoms, and existing only in the wildest imagination! And yet, through all, and around all, you would listen to the sparkling river of content and gay spirits flowing on, without a ripple to disturb its placid surface, to swell the great ocean of pure happiness! Then fancy what a mockery and farce it must be, to hear *now* from these same heroes of romance (for our land, Sir, teems with such—more vivid and true than were ever portrayed in work of fiction) a stern demand for luxurious comforts and convenient delicacies as a *sine qua non*, before advocating and supporting a measure fraught with such vital importance to a whole community, as this undoubtedly is.

But if, notwithstanding, we are to remove, and on this ground alone (for no other honest or substantial one exists;) why, let it be at once to San Francisco, where every taste can be gratified, every palate satiated, and every discontented spirit reconciled forever. *This* would at least display reasonable and manly consistency. But, no! you desire to fly right in the very face of it; and where? To Sacramento! A city that requires no adventitious aid, of this character, to advance her interests and promote her welfare—a city that can exist and grow, aye, rapidly and proudly, too, *without* the presence of your *floating capital* (for such, unfortunately, it has ever proved)—a city in fine, that deserves the highest praise for still advancing right onward and upward, athwart the very path of the devouring elements—and truly in contemplating the sad story of her fortunes, it would indeed seem as if she had invoked a spirit not of earth, in order to have thus nobly withstood the shock of such crushing calamities! Yes, Sir, in this feature, she resembles our own city of the Golden Gate; for although conflagration after conflagration, and inundation after inundation have swept, and may *again* sweep away, accumulated millions; yet, each time this magic city of a day, like the fabled bird of antiquity, soars aloft with increased splendor and beauty! And though poor, unpretending Benicia, it is true, has not enjoyed these fearful tests of innate resurrection, yet, it is to be hoped that *you* will not in cruel mercy, accomplish the bitter task of inflicting upon her the *moral effect* of all these disasters. For, with a removal follows most surely the utter prostration of every vital energy within her de-

voted limits ; and in that event you will be rivaling the unprincipled rulers renowned in ancient story, and even in our own time, who

*Solitudinem faciunt et pacem appellantur.*

Again, Sir, seven times in the history of this commonwealth has the seat of government been removed ; and were the entire sums thus expended, with interest, (for it is clear that the minority report *cannot* include *all*) concentrated in the hands of the State, for the following purpose, they would more than suffice to build a Capitol in every large city within its borders ! But unfortunately the disordered brains of *honest* speculators, whose feverish dreams are ever haunted by dazzling visions of eternal spoils—and even Hon. members *will* not escape the charge of being slightly affected, in their judgment—are singularly weak on this one point. All entertain the belief that because every year this caravansary question *has* been agitated—ergo, the business of the session cannot progress, or legislation be complete, unless it be again introduced. Quiet one term, because unsuccessful, it is too much to endure any longer in silence, without one more restless effort to promote a grand excitement, in advance of the old almost anniversary removal. And those who oppose are considered, and reproached with being innovators. The epithet is misapplied. Well, be it so ! Yet they would seem, in my judgment, to be in political economy, what Molieres Doctors were in medicine—they would deem it more honorable to fail, and commit an established error, *by rule*, than to succeed, and effect a healthy reform, *by innovation* !—Now, Sir, after marching and countermarching all over the country, subjecting the Hon. body of the State to ridicule and contempt, and thereby disregarding the wishes and declared will of an enlightened constituency—*what*, I ask, do we find, as the final result ? Why, like a celebrated king of France, most famous in history, who with a certain body of men accomplished *nothing* by marching *somewhere* ! so our preceding, and many *present* legislators, have emulated this great feat with becoming gravity, precision and effect. But with this difference, Mr. Speaker, that it has cost the army of our good people twenty times as many dollars as that mighty king's was composed of men. If then, we *must* continue to follow in the steps of those who have recklessly plunged the State into such fatal embarrassments, and rendered all who may occupy their seats hereafter in this hall, a by-word and a reproach—why the sooner we begin the better, and for one, (I think I speak the sense of my Hon. associates) I am in favor of leaving *in style*. In God's name, if we are to remove, let the exalted dignity of this body be accompanied and surrounded with fitting splendor and display. If we must leave this impoverished scene of all our misery, do not plunge into deeper ; but let the accumulated wisdom of the State receive the homage of the crowd, and depart encircled with all those attendant luxuries and eclat, their startling wants require, or their imposing state demand ! If our most honorable bodies must decamp, let them be protected and supported with becoming *spirits*, decency and effect. To insure this desired result, let us appoint Committees on Diabolical Expenditure ; let us have



a Committee on Desperate Ways and Infernal Means ; let us form a Special Committee of Lacivious Lute Players, every one of which shall be chairman, and let them be instructed to entertain us with such dulcet strains of enrapt harmony during our voyage, that upon arriving at our destination, we may all be enabled "*to caper nimbly in ladies' chambers !*" Let there be feasting and merry-making ; let the dance, the revel and song prevail, without reason and without soul. Let the P. M. S. S. Co's finest steamer be chartered, and all their vessels employed as escorts to convey the enlightened wisdom of the commonwealth. Let the entire inhabitants of Benicia be invited to attend as *State* mourners and pall-bearers, in order that our thoughts may be rapt at this banquet in a shroud, and we, thereby, reminded of our own sad ends. *This* let us do, and learn those advancing but crippled communities when they dare approach us, their *Honorable* Representatives, with unheard of offers in liberal and generous profusion, accompanied with touching appeals, not only for their own preservation, but for the dearer interests of the State—how we, unmindful of every consideration but a mere *fancied convenience*, can proudly trample all under foot, and effect our own obstinate ends by *compromising ways* and with the *largest possible amount* of *squandering* of the *People's means* !

Mr. Speaker, time admonishes me to close these *unavailing* remarks, and I speak the phrase with regret. In enumerating the superior advantages of Benicia over Sacramento, I neglected to mention the most important. The vested interest of the State to its ratio of the city water front, as at San Francisco, may indeed *now* be insignificant in comparison ; yet not long, and its value, which may at present be told in thousands, will be proudly named in hundreds of thousands. In any event, Mr. Speaker, in my opinion, your only sure method to secure a *permanent* habitation to the Capitol is this : Let a fund be created termed the "Building Fund" ; let warrants styled "Building Fund Warrants" be issued, bearing interest at 7 or 10 per cent. per annum ; then let the State proceed immediately to construct all suitable edifices. In this way you offer a tangible, positive security to capitalists, who will invest permanently in the advancement of your city. Thus you invite, by guarantee, the import of every kind of wealth to promote your enterprise, and attain prosperity. In like manner have many older States suffered, and in this way, and this only, have they been relieved—thereby setting the vexed question at rest forever. Believe me, Mr. Speaker, there are many citizens throughout our State anxious that we should thus permanently locate the Capitol ; men of vast means, who are only awaiting this *safe* opportunity in order to beautify the city, adorn its precincts, and enlarge its limits. In this way alone, therefore, can you give stability to your measures, and impart confidence to your legislation. Then, indeed, you would see spring up around you, like magic, all those endearing refinements and costly embellishments which invariably cluster around the chief city of a great and enlightened State.

In conclusion—as you leave this Hall and descend the steps of the

Capitol, halt upon the summit of the hill, and with the warm, bright sunshine animating every living thing, just gaze down upon the little city slumbering in quiet repose at your feet. Its innocent face, unconscious of impending danger, seems turning to your own, mutely pleading for protection, while around all the noise and hum of busy life are murmuring in the ear, like the rippling waves upon a distant shore. Yet think, ere this magic scene fades from before your eyes, with setting day, that all this pleasing creation lies basking in your fostering smile, almost brought into existence beneath the inspiring warmth of its genial rays—and *then* think, only think for one moment, if you now withdraw it, what a cruel blow you strike, and how you paralyze its existence forever ! Will you, can you, do this ? No, gentlemen ! as the roll is called, let each one respond with manly justice to this stirring appeal from Benicia ; so, when you return to the good and honest people who sent you here, you will be enabled to resign into their hands the mantle of power, with which for a brief period they have invested you, with such a grace that they may, perchance, be induced to *encumber* you with it again. And then, believe me, that you will lie down to pleasant dreams, with the sure consciousness that economy is not a mockery, or retrenchment and reform glaring humbugs ; and animated with the proud conviction that while *faithful legislation* is not a mere delusion, you, at least, have done something (even though it be for the first time in the history of its annals) towards this desired realization, and acted your parts as good and tried servants of the People, with honor, integrity and devotion.

351  
LOUISIANA.

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SPEECH

OF

HON. AARON A. SARGENT,

OF CALIFORNIA,

IN THE

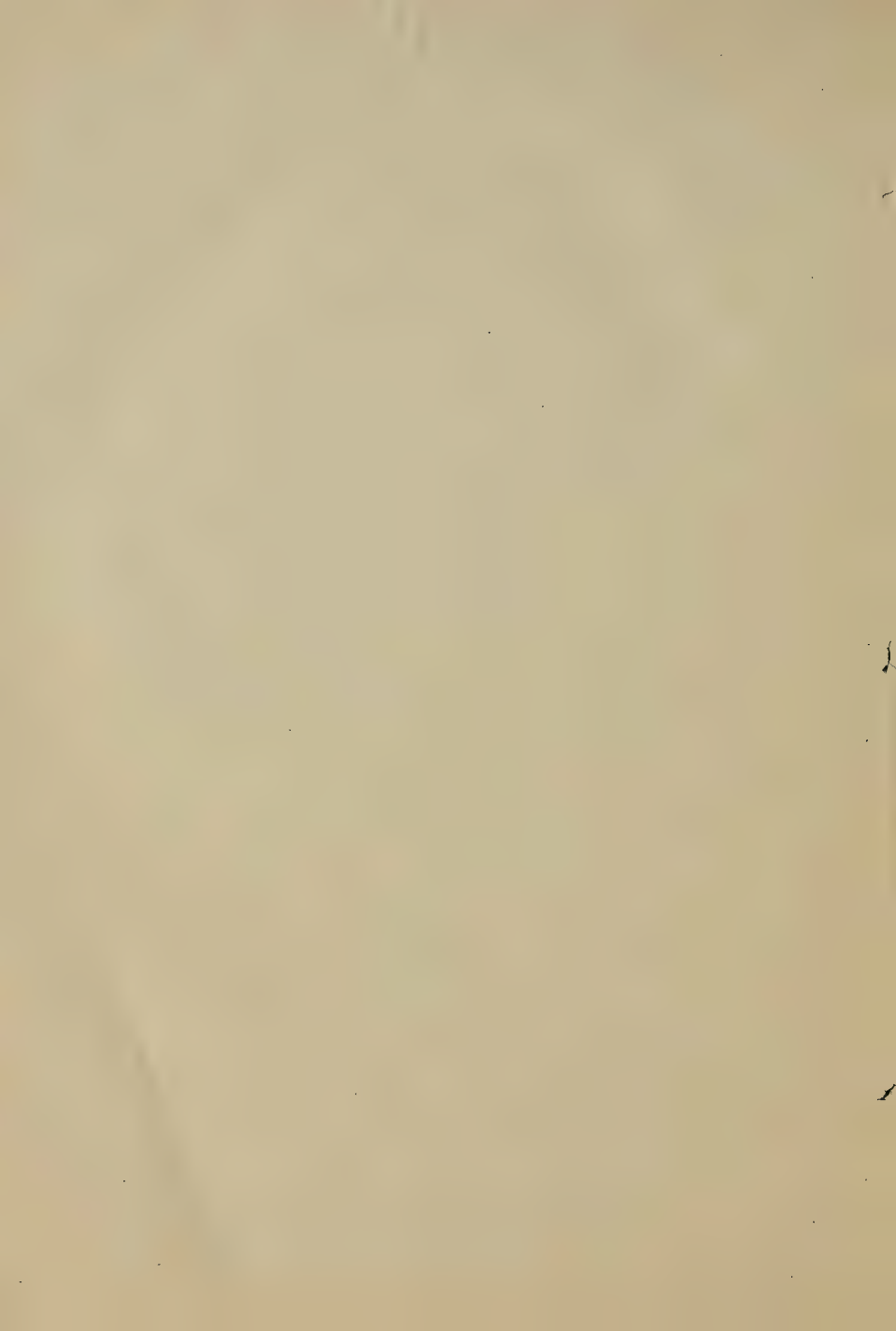
SENATE OF THE UNITED STATES,

FEBRUARY 15, 16, AND 17, 1875



WASHINGTON:  
GOVERNMENT PRINTING OFFICE.  
1875.





# SPEECH

OF

## HON. AARON A. SARGENT.

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The Senate having under consideration the following resolution submitted by Mr. MORTON on the 8th instant:

*Resolved*, That P. B. S. Pinchback be admitted as a Senator from the State of Louisiana for the term of six years, beginning on the 4th of March, 1873—

Mr. SARGENT said:

Mr. PRESIDENT: The resolution before the Senate and the action proposed is but one phase of the very many-sided question that comes up to us continually from the South. It would be impossible at the present time to discuss any question relating to the political condition of the South without more or less involving consideration, with regard to every other. I had prepared some time since, as is known to the Senate, some observations with reference to the general condition of Louisiana, some considerations upon the employment of military force in Louisiana to put down insurrection, and upon the circumstances which happened when an attempt was made by fraud and by force to seize the lower house of the Legislature of Louisiana and subvert the existing State government. I did not have an opportunity to make those remarks, not through the fault of the Senate, but through my own illness; and now at the earliest opportunity, when this subject is properly before the Senate, I desire to make the observations upon that branch of the subject which I should have made at that earlier day.

I am very well aware that if epithets and catch-words would convince the Senate and annihilate the republican party, such debates as this would have terminated long since and all these questions would have been disposed of. We have been assured over and over again by democratic Senators that the President has been guilty of usurpation; that the republican party are trying to subvert the liberties of the State of Louisiana and to destroy the rights of a people; that the people of New Orleans are patriotically struggling for their rights and liberties. This is the tone which is assumed by Senators and by the democratic press of the North and South in the mock appeals which they make to Congress and to the North. Such talk is not new in this Hall. Such utterances in this Hall and out of it hailed the outbreak of the rebellion and accompanied it step by step throughout its progress. Such talk is not new in Louisiana, of a crushed people, of people struggling for their liberties in resistance to a central despotism. Here is the way that Governor Moore, the governor of that State in 1861, talked to the truly loyal people there:

The Government at Washington—

He said—

maddened by defeat and the successful maintenance by our patriotic people of their liberties and rights against its usurpation in the harbor of Charleston, has

now thrown off the mask, and sustained by the people of the non-slaveholding States is actually engaged in levying war, by sea and land, to subvert your liberties, destroy your rights, and shed your blood on your own soil.

That is the language which we hear now; that we are subverting the rights of a people; that we are guilty of usurpation; that the Administration is maddened by political defeat, and is endeavoring to overthrow the government of Louisiana. The air has been filled with such declarations, and it is filled with them now.

A short time ago the State of Missouri sent to the Senate its utterances and conclusions with regard to the progress of things in Louisiana, and it said: The acts of the Government in Louisiana are—

An outrage upon a helpless people, calculated to insult and bring into public odium the gallant Army of the United States, intended for nobler purposes than that of upholding an effete local usurpation.

When I heard that resolution read to the Senate, containing very much more of the same character as the slight extract from it which I quote, I was reminded of the charges brought against President Lincoln in 1861 by this same Legislature—charges nearly identical with those which they now fulminate against the present President of the United States. That Legislature then said that Lincoln had acted “in avowed defiance of the Constitution of the United States;” that he was exercising “usurped power;” that he was making “an unholy attempt to reduce a free people into subjection to him,” &c. I certainly am right in saying that the declarations which we hear now on this floor and by the democratic press of the country, and which come up from Louisiana, are simply the echoes of the old cry which in 1861 hailed and stimulated the rebellion. They mean exactly the same thing now that they meant then, and they are as false to-day as they were false then.

I think the eloquent Senator from Missouri [Mr. SCHURZ] cannot enjoy the acclaim of the enthusiastic members of the party in the rotunda of the hall of the Legislature of Missouri, which recently elected his successor to this body. I would not be unkind in directing attention to the political history of Missouri a few years past, when by the then apparent effect of the political action of the Senator from Missouri there was a train of circumstances set in motion which led inevitably to the election of Cockrell, or some other confederate general, or a man wholly sympathizing with those ideas. I suppose the Senator from Missouri then, in spite of the plain pointing out which was made to him of the result of the action which he then took, did not believe that that action would result as it has resulted. How has it resulted? In sending a man diametrically opposed to the principles which he then professed. How was the election of his successor hailed by the men he has been encouraging to destroy him and his party? The Saint Louis Journal says:

There was great rejoicing among Cockrell's friends over his election. The scene in the rotunda begged a description. The great mass of humanity surged to and fro, some cheering madly, others hooting and cursing, and all excited to the highest possible pitch. The rebel element here manifested itself prominently. “By G—d, we've beat 'em at last!” “Yes, d—n 'em! the gray has scooped the blue this time! ‘Mebbe we haint just crawled out of the brush!” “Whoop'er up boys, and see how old Grant likes the rebel yell this time!” These were the cries that resounded through the halls of the old capitol building.

I do not believe that those cries were any more grateful to the ears of the Senator from Missouri [Mr. SCHURZ] than they would be to mine; but I do insist that the course of many men who a few years ago were trusted by the republican party who were in full fellowship with it, and who deserted that party or denied its prin-



ciples, has led, logically and necessarily, to such a consummation as that witnessed in Missouri.

Now, sir, we have also learned from democratic Senators their ideas of constitutional law. We have violated, they say, the sacred Constitution, and so has the President, in Louisiana, and hours of melancholy jeremiads have been uttered over that desecrated instrument. Not a democratic speech has been made by a Senator in this Hall where he has not been luminous, ay voluminous, upon constitutional power. I impeach the law of these orators. I deny that they understand or have ever understood the Constitution of this country. They have been expounding the Constitution of the country for the past fifteen years, and as constitutional expounders they have been lamentable failures. Not learning by ridiculous failures, they keep up that pretense of oracular constitutional wisdom, as if the country and the Senate could not understand the obliquity and perverseness of their interpretations.

I wish to refresh the recollection of the Senate by citing a few of the mooted points upon which democratic authorities have been found at fault and repudiated; and then we can discover how much faith to put in such constitutional expounders, and the value of their assumption that such wisdom begins with them and will die with them. I will not go back to the precedent at New Orleans, where Jackson dispersed a Legislature, closed a court, and exiled a judge, for the democracy that inspired that act was a purer article than any we have recently seen; and Jackson declared that "the Union must and shall be preserved." I will not go back to the dispersion of a Legislature in Kansas by United States troops on the order of a democratic President, because that was a territorial Legislature, and all democratic authority, constitutional and otherwise, told us that Territories had no rights against the interests of slavery. I propose to come at once to some of the scenes in which we were all actors, when the heaviest responsibilities rested on every conscience, when party interests were forbidden by patriotism to be weighed against the nation's life, and those who spoke for the democracy were recreant to the highest trusts or else gave their best exposition of constitutional law.

On the 4th of December, 1860, South Carolina having seceded and other States preparing to follow its example, a grave constitutional question arose as to the power of the General Government to coerce a State. It was a fundamental question: Was there constitutional power in the hands of the General Government to coerce a State? James Buchanan, a democratic President, devoted, like the democracy of to-day, to constitutional law and the Constitution, sent his last annual message to Congress, and, like the democratic lawyers and democratic Senators at the present day, he discussed the question whether there was any constitutional power on the part of the Government of the United States to protect itself from sheer rebellion. He said:

The question, fairly stated, is: Has the Constitution delegated to Congress the power to coerce a State into submission which is attempting to withdraw or has actually withdrawn from the confederacy? If answered in the affirmative, it must be on the principle that the power has been conferred upon Congress to declare and to make war against a State. After much serious reflection I have arrived at the conclusion that no such power has been delegated to Congress nor to any other department of the Federal Government.

In the light of recent events, of all that has happened since, of the great wave of civil war that has rolled over the country, of the subjugation of the South, the emancipation of the slaves, and all the great events of the past fifteen years, how puerile seems this reason-

ing, this constitutional exposition of the last democratic President of the United States. He goes on:

It is manifest upon an inspection of the Constitution that this is not among the specific and enumerated powers granted to Congress, and it is equally apparent that its exercise is not "necessary and proper for carrying into execution" any one of these powers.

It may be necessary and proper in order that the Government may even exist, as the Constitution declares that the Government may exist, but that which I have quoted was democratic constitutional exposition! He continues:

So far from this power having been delegated to Congress, it was expressly refused by the convention which framed the Constitution.

He summed up:

Without descending to particulars, it may be safely asserted that the power to make war against a State is at variance with the whole spirit and intent of the Constitution.

I do not cite this to argue against it; I cite it because its absurdity as a constitutional exposition is so great, that a mere statement that such was taken as democratic constitutional law in 1861 is sufficient to show the unsoundness of democratic constitutional logic. But let us look further. Jeremiah S. Black was the Attorney-General of the United States at that time under this democratic administration. He was the one who was principally relied upon to furnish the law to the administration and pass upon constitutional questions. This great light of constitutional law, selected for his capacity in that respect, wrote a letter to Mr. Buchanan just before this message, an extract from which I have read, wherein he advances the same idea. He said:

If it be true that war cannot be declared—

After having gone on to show that it could not—

nor a system of general hostilities carried on by the central Government against a State, then it seems to follow that an attempt to do so would be *ipso facto* an expulsion of such State from the Union. Being treated as an alien and an enemy, she would be compelled to act accordingly. And if Congress shall break up the present Union by unconstitutionally putting strife and enmity and armed hostility between different sections of the country, instead of the "domestic tranquillity" which the Constitution was meant to insure, will not all the States be absolved from their Federal obligations? Is any portion of the people bound to contribute their money or their blood to carry on a contest like that?

I cite these to call attention to how kindly and readily these eminent democratic constitutional expounders gave away the legal life of the nation, the right of the nation to live, and construed the Constitution into a mere rope of sand. South Carolina had seceded three days before this message of Mr. Buchanan. "Anti-coercion" was the democratic party cry all over the North. The first victory which the republican party succeeded in gaining in the rebellion was in establishing the principle of coercion. I myself, and I have no doubt that other republican Senators on this floor, repeatedly met upon the stump and elsewhere the assertion made by democratic orators that there was no power to coerce a State, and we had as the very first step in our progress toward putting down the rebellion to maintain the constitutional right of the Government to coerce a rebellious State.

Let us come down a little further, for these reminiscences are valuable as showing to what tribunes this constitutional question is referred by the democratic party.

On April 15, 1861, Lincoln issued a proclamation for seventy-five thousand men. The democratic party leaders at once saw how un-

constitutional that was. The day before Major Anderson had marched out of Sumter after defending it for thirty-four hours. Governor Jackson condensed the speeches of a great many democratic lawyers in his reply to the President's requisition. The governor was the chief magistrate of the State of Missouri, which now holds the same language with regard to Louisiana. The governor said in reply to Mr. Lincoln when he called upon him for the quota of troops from that State:

Your request is illegal, unconstitutional, revolutionary, inhuman, diabolical, and cannot be complied with.

The substance of a great many democratic speeches and a great many democratic editorials is contained in these two lines, as they were made at that time. I do not know but that some of the democratic Senators who are about me used just such language with reference to the efforts of President Lincoln to assemble a military force to put down the rebellion; but one thing I do know as within my frequent observation, that just such objections, just such points of constitutional law we had to meet continually in order to sustain the Government.

There came a time when the North began to be somewhat tired; there was not ready volunteering and scarcely any at all; our armies were perishing in the field and needed new life-blood which could only be procured by means of conscription; and at the very time when, to use the language of an eminent man, the rebels were robbing the cradle and the grave to fill up their army, our armies were perishing for want of the supply of new men. A proposition was passed through Congress for a conscription law. Recruiting was dull and the armies must be filled up. Then there were anti-draft meetings in the city of New York larger than the meeting recently assembled at the Cooper Institute to protest against the proceedings of the Administration in Louisiana, and they were as violent in their language and they saw just as much unconstitutionality in the idea that the Government had any right to draft citizens into the Army as recently at the Cooper Institute or the Manhattan Club they did in the course of the Administration toward insurrectionary Louisiana.

In Pennsylvania there was the case of William F. Nichols, who brought a bill in equity to restrain proceedings under the enrollment law or the drafting of citizens into the Army. The supreme court of that State was democratic by one majority; the casting vote was given by Mr. Woodward, formerly of the House of Representatives, very well known I presume to every member of this body; and the law was held unconstitutional and the injunction was granted. I want to call attention to this eminent democratic authority at that time. Subsequently the decision was reversed; fortunately there was a change in the bench by death or by election by the people.

Mr. SCOTT. A new election.

Mr. SARGENT. There was a new election by which the people redeemed the supreme court, and thus a most disastrous conflict between the Government of the United States and the State of Pennsylvania was averted, and the new court held as any one now would hold from the logic of past events and the floods of light which have been cast by our courts on this proposition in various proceedings, that the law was strictly constitutional. I want to read an extract from the opinion of Judge Woodward, given at that time, who was the majority of one on the supreme bench. Mr. Woodward from 1865 for several years represented Pennsylvania in the other House of Congress. He said:

The great vice of the conscript law is that it is founded on an assumption that



Congress may take away, not the State rights of the citizen, but the security and foundation of his State rights. And how long is civil liberty expected to last after the securities of civil liberty are destroyed? The Constitution of the United States committed the liberties of the citizen in part to the Federal Government, but expressly reserved to the States and the people of the States all it did not delegate. It gave the General Government a standing Army, but left to the States their militia. Its purposes in all this balancing of powers were wise and good; but this legislation disregards these distinctions and upturns the whole system of government when it converts the State militia into "national forces," and claims to use and govern them as such.

On such reasoning it was held that the Government of the United States had no right to require and enforce the presence of one of its citizens in the Army of the United States. At the very time when the nation was about to be inevitably destroyed, forever severed, and with all the evil consequences which would flow from a division precipitated both upon the North and the South, this decision was made on these constitutional grounds, which have, I say, become puerile in the light of recent events; but this is high democratic authority.

Then there came the question of emancipation as a war measure, so declared in the proclamation of Mr. Lincoln. Vattel and all other writers on international law had clearly shown that a civil war of vast proportions stands on the same footing as a war between nations, and that the right exists to weaken an adversary nation by seizing or destroying its property or freeing its slaves; but democratic Senators and lawyers were never tired of explaining how unconstitutional was emancipation, no right existing under the Constitution or growing out of the Constitution, and no right by the war power, no right by the example of nations through all time, no right no matter how clearly laid down by Grotius, Vattel, Puffendorf, and all writers on international law, but nevertheless the Government was bound hand and foot, and could not avail itself constitutionally of the most ordinary power which is exercised by every nation which goes to war with another or even with a formidable insurrection among its own subjects. I need not quote democratic denunciation of this policy of the Government. It is too familiar to every one. I pass to another proposition.

After we had shown that we could and would emancipate, they said "but you cannot arm the slaves;" and they resisted all our efforts, resisted by all-night-long sessions in the other House and I do not know how long sessions here, every proposition which looked toward the arming of slaves, the taking of this freed element of manhood and putting in his hands the means to defend its liberty and protect the Union which had given it that liberty. I want to show by a very brief extract just what was thought by these constitutional expounders on that proposition. I have here a number of extracts from democratic speeches, but I will quote only from one, from Mr. Crittenden—if not nominally a democrat, talking in the same vein—a representative of the State of Kentucky eminent for his public services, but who seemed to become chilled in his feelings toward the success of the war for the Union when its logic seemed to be inevitable that the blacks must be freed and next that they might be used for the purpose of filling up the Union Army. He said with reference to this proposition:

It is a crime against the civilization of the age—

I have no doubt that this worthy old man had visions of horrors at the idea that arms could be put in the hands of the slaves; he feared excesses on their part; but I am glad that the result never

justified these dismal apprehensions. I do not cite that remark of his even as reflecting upon his judgment. But he goes on to say:

It is a crime against the Constitution.

Here we have again an exposition of the Constitution.

It is an act of hostility against the Union. These are the sentiments with which I am compelled to regard this measure.

I say it is a crime against the Constitution.

Like every other proposition intended to strengthen the national arm, it was necessarily a crime against the Constitution! But with measures which were not exactly warlike in their character as regarding the finances, there was the same democratic impenetrability to a proper construction of the Constitution of the United States. I say confidently a proper construction of the Constitution of the United States, because in this matter the Supreme Court of the United States have distinctly decided that the legal-tender acts, as they were called, were entirely constitutional; and democratic lawyers, I suppose, with a decision like that upon their tables, must admit the constitutionality of those provisions which were made in order to give us the life-blood in that great struggle. But I want to call attention to the position of the democratic party on that matter. The Government could not sustain its credit by the issue of notes that were not legal-tenders, or could not bring within its vaults by any means sufficient gold to pay its current expenses and enable the people to pay their taxes and pay off our Armies from month to month; and so resort was had to legal-tender notes. This issue was opposed on the premise that it was entirely unconstitutional. I have here the remarks of the Senator from Delaware, the father of the Senator who now holds that seat, [Mr. BAYARD,] which I give as an illustration of the position which was taken by the democratic party at that time on this floor and in the House of Representatives and by their press generally.

He said:

I shall, however, pass over the constitutional argument. I really do not think, from anything I ever heard on the subject, that is worth an argument. The thing is to my mind so palpable a violation of the Federal Constitution that I doubt whether in any court of justice in this country, having a decent regard to its own respectability, you can possibly expect that this bill which you now pass will not, whenever the question is presented judicially, receive its condemnation as unconstitutional and void in this clause.

To show that this anticipation of the Senator from Delaware and his democratic associates of the action of the courts of justice on this proposition was entirely incorrect, that they were in error then as they always are on constitutional points, I desire to call attention to the decision of the Supreme Court of the United States upon the question. A very brief extract will suffice for this purpose. The Supreme Court, in the legal-tender decision made in 1871, said:

We are not aware of anything else which has been advanced in support of the proposition that the legal-tender acts were forbidden by either the letter or the spirit of the Constitution. If, therefore, they were what we have endeavored to show, appropriate means for legitimate ends, they were not transgressive of the authority vested in Congress.

And again they say:

But, without extending our remarks further, it will be seen that we hold the acts of Congress constitutional as applied to contracts made either before or after their passage.

There were other propositions wherein democratic lawyers became extensively learned with regard to their constitutionality. In December, 1862, the House of Representatives passed a bill to indemnify the

President and other persons for suspending the writ of *habeas corpus*, and it passed both Houses finally. There was a necessity for it, because rebel emissaries were plotting mischief, seeking to carry out the pledges of the democratic leaders to aid the rebellion. This act was held constitutional by the supreme court of New York in the case of George W. Jones *vs.* William H. Seward, and was held constitutional wherever it was brought to the attention of courts. But our democratic constitution-expounders had hastily before that, contemporaneously with its passage, shown their care for and knowledge of the Constitution. There was a protest made by thirty-six democratic members of the House against the passage of the measure, putting it upon high constitutional grounds. Among those members who thus protested and showed their knowledge of the Constitution of the United States were George H. Pendleton, Clement L. Vallandigham, SAMUEL SULLIVAN COX, Charles A. Wickliffe, Daniel W. Voorhees, and many others whom I might name. They recite:

On the 8th day of December, A. D. 1862, and during the present session of Congress, Mr. Stevens, of Pennsylvania, introduced the bill No. 591, entitled "An act to indemnify the President and other persons for suspending the privilege of the writ of *habeas corpus*, and acts done in pursuance thereof," and after its second reading moved that its consideration be made the special order for the Thursday then next ensuing; (which motion being objected to, he moved the previous question; and this being sustained, under the operation thereof the bill was read a third time, and passed.

They go on and give various reasons for protesting, of which this is the third:

Because it purports to confirm and make valid, by act of Congress, arrests and imprisonment which were not only not warranted by the Constitution of the United States, but were in palpable violation of its express prohibitions.

Unfortunately for these protestants the courts, as soon as they had opportunity to pass upon the matter, held that the law was strictly constitutional. But that did not diminish the confidence of these orators, and they kept on trying to show their knowledge of the Constitution, though no court agreed with them. The fact that the Supreme Court of the United States differed with them did not abash them for a moment in the confidence with which they then approached and now approach such questions. Mr. Pendleton, whose name I read, made a speech on the subject, in which he used this language, on the 3d of March, 1863:

Martial law! The war power! Military necessity! As these terms are used to-day they have no lawful existence among us. They abrogate and destroy the Constitution. They violate the whole of it in letter and spirit in order that they may compel obedience to part. They are the devices of fanaticism; its flimsy pretexts under which power conceals its aggressions, the specious names under which cowardice seems to skulk from observation while it gratifies its malignant rage.

This was said in the midst of the civil war, when the Government was struggling by the tension of every nerve to save the country. This language, heated as it is, is however scarcely more so than we have heard recently from democratic orators and Constitution expounders with regard to matters in Louisiana. He goes on; it sounds almost recent and fresh:

They are the inventions of despotic power distorted from their original purpose by a party distressed and baffled by the humiliations of a war which it had not the virtue to prevent and has not the ability to manage; the insufficient cloak with which it seeks to cover as it were with the mantle of constitutionality the efforts of despairing and impotent wrath. Powers thus usurped will have but a brief and profitless day. They depend upon force. It is lawful to resist them by force. It may become wisdom and patriotism to resist them by superior force. After much long suffering "resistance to tyrants is obedience to God."



I do not know but that it is well sometimes to turn over the musty volumes of the *Globe* to find the fire that is smouldering within their leaves, to find out how men's passions were excited a few years ago against the Government, on what pretexts they then acted, under what pretenses of regard for the Constitution, pretenses brought forward at the very moment when action was required, to cause delay and to protest against it—tactics which exist to this very day.

There were other propositions. There was an exclusion of papers from the mails. The *New York News*, published by Ben. Wood, rang with incendiary appeals for bloody resistance to the Government in the North. Major-General Wallace suppressed the *Baltimore Evening Transcript*. General Rosecrans forbade the circulation of the *Metropolitan Record* in the Department of the Missouri. And there were other papers which were forbidden to be transported through the mails. The object was to prevent hostile printed matter from reaching the enemy and to prevent such matter from instigating others to co-operate with the enemy by the aid of the United States mails. The question was presented, was there constitutional power on the part of the Government of the United States to prevent these incendiary communications from passing through the mails. Caleb Cushing, Pierce's Attorney-General, Caleb Cushing—strong in the confidence of the democratic party, a great constitutional lawyer, a light for them and Franklin Pierce, President of the United States—a democrat, a lawyer, a constitution expounder, had discussed the matter, and Cushing decided as an administration measure that incendiary matter even in time of peace could be excluded from the mails. I ask the Clerk to relieve me by reading what I have marked in the book which I send to the desk. I desire to show how far democracy can construe the Constitution in favor of slavery, and then I shall show how far it can construe its clauses against liberty and national existence, when the same measure is involved.

The Chief Clerk read as follows:

ATTORNEY-GENERAL'S OFFICE,  
March 2, 1857.

\* \* \* With these premises we have the main question very much simplified. It is this: Has a citizen of one of the United States plenary indisputable right to employ the functions and the officers of the Union as the means of enabling him to produce insurrection in another of the United States? Can the officers of the Union lawfully lend its functions to the citizens of one of the States for the purpose of promoting insurrection in another State?

Taking the last of these questions first, it is obvious to say that, inasmuch as it is the constitutional obligation of the United States to protect each of the States against "domestic violence," and to make provision to "suppress insurrections," it cannot be the right of the United States, or of any of its officers, and, of course, it cannot be their duty, to promote, or be the instrument of promoting, insurrection in any part of the United States.

As to the first question, likewise, it seems obvious to say, that, as insurrection in any one of the States is violation of law, not only as regards that State itself, but also as regards the United States, therefore no citizen of the Union can lawfully incite insurrection in any one of the States. \* \* \* It would be preposterous to suppose that any citizen of the United States has lawful right to do that which he is bound by law to prevent when attempted by any and all others; and monstrous to pretend that a citizen of one of the States has a moral right to promote or commit insurrection or domestic violence, that is, robbery, burglary, arson, rape, and murder, by wholesale, in another of the States.

These considerations, it seems to me, are decisive of the question of the true construction of the act of Congress. Of that it is impossible for me to doubt. Its enactment is, that "If any postmaster shall unlawfully detain," he shall be subject to fine, imprisonment, and disqualification. Then, if the thing be of lawful delivery, it cannot be lawfully detained; while, on the other hand, it cannot be unlawful to detain that which it is unlawful to deliver. Such is the plain language and the manifest import of the act of Congress.

I do not mean to be understood that the word "unlawfully" of the act deter-

mines the case; on the contrary, my conclusion would be the same, though that word had not been here inserted. By employing it, indeed, the act expressly admits that there may be lawful cause of detention. But such lawful cause would not the less exist, although its existence were not thus expressly recognized. And, of all conceivable causes of detention, there can be none more operative than treasonableness of character, for in every society the public safety is the supremest of laws.

Nay, if, instead of expressly admitting lawful causes of detention, the act had undertaken to exclude them—if, for instance, it had in terms required the postmasters to circulate papers, which, in tendency and purpose, are of character to incite insurrection in any of the States—still my conclusion would be the same. I should say of such a provision of law, it is a nullity, it is unconstitutional; not so by reason of conflict with any State law, but because inconsistent with the Constitution of the United States.

The Constitution forbids insurrection; it imposes on Congress and the President the duty of suppressing insurrection; this obligation descends through Congress and the President to all the subordinate functionaries of the Union, civil and military; and any provision of an act of Congress requiring a Federal functionary to be the agent or minister of insurrection in either of the States would violate palpably the positive letter, and defeat one of the primary objects, of the Constitution.

These, my conclusions, apply only to newspapers, pamphlets, or other printed matter, the character of which is of public notoriety, or is necessarily brought to the knowledge of the postmaster by publicity of transmission through the mails unsealed, and as to the nature of which he cannot plead ignorance.

Mr. SARGENT. On the next page the Clerk will find marked a letter from Jefferson Davis in which he commends this doctrine of exclusion from the mails of printed matter in the interest of slavery as eminently proper and worthy of a State-rights administration; and I should like to show how that eminent constitutional democratic expounder, Jefferson Davis, looked upon this power of which the democrats subsequently found it convenient to deny the constitutionality.

The Chief Clerk read as follows:

WASHINGTON, January 4, 1858.

GENTLEMEN: When I last addressed you in answer to your letter communicating the views and feelings of the citizens of Yazoo City, in relation to the circulation of incendiary matter through the mails of the United States, I promised that you should hear from me further, and gave you assurance of such action by the last administration as would be satisfactory to you.

I have thus long delayed the promised communication in expectation of receiving the opinion of the Attorney-General upon the legal merits of the case, the question having been referred to him by the Postmaster-General, Hon. James Campbell.

The Attorney-General, in the opinion inclosed, sustains the conclusion of the President and the Postmaster-General, and so satisfactorily disposes of the question at issue that I hope that we shall be saved from any further agitation of it.

Concurring fully with you in your opinion of the powers of a State, the duty of its citizens, and the obligation of our community in such contingency as that presented by the case reported in your letter, I trust we shall also agree that the matter has been concluded in a manner worthy of the State-rights administration under which it arose.

With great regard, I am your friend and fellow-citizen,

JEFFERSON DAVIS.

To MESSRS. ROBERT BOWMAN, GEORGE B. WILKINSON, and A. M. HARLOW, Committee, Yazoo City.

Mr. SARGENT. I do not know that it is worth while to quote much democratic authority to the point that it was unconstitutional to exclude papers rife with rebellious suggestions—provocative of insurrection—from the mails. I will simply quote as a specimen a few remarks of Mr. Pendleton, of whom there are not entirely unlikely signs that he may be the next democratic nominee for President of the United States, showing that democratic exposition of the Constitution are matters which change with every whim of passion—that they have no stability whatever. In 1863 Mr. Pendleton made a speech in the House of Representatives referring to this very ques-

tion of the exclusion of newspapers from the mails—newspapers loaded with treason, newspapers calculated to excite passion and insurrection—and speaking for his party with its record on the subject he held that all this was entirely unconstitutional. He said:

Thus far my argument has been founded on the considerations suggested by the report of the committee and on the absence of any law conferring the power in question on the Postmaster-General. But my conclusions do not rest upon this alone. The argument rises to a higher dignity. It involves express provisions of the Constitution and principles of constitutional liberty.

"Congress shall make no law abridging the freedom of speech or of the press."

This is the first article of the amendments of the Constitution.

Then he goes on to elaborate upon that idea. So that I say that they wrest the Constitution according to the exigencies of the moment; that they are unsafe, time-serving constitutional expounders. But why descend to particulars? The democratic national convention in 1864 condensed and embodied the constitutional lore of the party, and by one exposition showed that by this and by all the war measures the Constitution had been violated in every particular. They resolved as follows:

*Resolved*, That this convention does explicitly declare, as the sense of the American people, that after four years of failure to restore the Union by the experiment of war, during which, under pretense of military necessity or war power higher than the Constitution, the Constitution has been disregarded in every part, and public liberty and private rights have been alike trodden down, and the material prosperity of the country essentially impaired, justice, humanity, liberty, and the public welfare demand that immediate efforts be made for a cessation of hostilities, with a view to an ultimate convention of all the States or other peaceable means, to the end that at the earliest practical moment peace may be restored on the basis of the Federal Union of the States.

We all know the circumstances attending and immediately following the adoption of that resolution. It was a turning point in the history of the war of the rebellion; it was the point when distress was past, when all failures had ended, when all disappointments had been encountered, when the nation with high heart was looking for and now realizing a turn in the tide of fortune that was sweeping on to the results of the great struggle of the rebellion, and the democratic party came in and announced that the war was a failure. But what I want to call attention to is the fact that they declared that by all of these war measures by which the country was saved the Constitution had been violated in every part. Either by emancipation, by coercion, by financial measures, by every measure of precaution, by every measure of coercion, we had been acting unconstitutionally from the very first; and this embodied the concentration, the essence of democratic constitutional learning.

With these exhibitions of democratic constitutional discretion, I say I impeach their law; I deny their ability to expound that instrument; and when they denounce in this Chamber the efforts of the Government to preserve peace and the forms and substance of law in Louisiana, I hear the old cry against coercion, conscription, and emancipation. Senators may be eminent lawyers in *assumpsit*; they may and are undoubtedly learned in torts and remedies outside of politics; but history has recorded their gigantic blunders in construing the Constitution; and I have not, therefore, been surprised to learn from this source that the President has been guilty of violations of the Constitution. A little more exaggeration would say violations of the Constitution in every part. A little more warmth and enthusiasm perhaps would reproduce their resolution of 1864, and it would create no surprise in my mind, and I doubt if it would in the mind of any who heard it. I prefer, however, to examine the matter for myself.



Reasoning for myself on the constitutional obligations of the President, I lay it down as a proposition that it is the duty of the General Government to protect a State against domestic violence; that this is a constitutional obligation, whether that violence is seated in a governor's chair or a legislative hall; whether it is by a disorganized mob or by an organized rebellion. Section 4, article 4, of the Constitution reads as follows:

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence.

There have been two laws passed enforcing this provision of the Constitution. The first, in 1795 is found in the first volume of the Statutes, page 424. The first three sections of it are material to the proposition which I desire to discuss, and I ask the clerks to relieve me by reading them.

The Chief Clerk read as follows:

That whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action as he may judge necessary to repel such invasion, and to issue his orders for that purpose, to such officer or officers of the militia as he shall think proper. And in case of an insurrection in any State, against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the executive, (when the Legislature cannot be convened,) to call forth such number of the militia of any other State or States as may be applied for, as he may judge sufficient to suppress such insurrection.

SEC. 2. *And be it further enacted*, That whenever the laws of the United States shall be opposed or the execution thereof obstructed in any State by combinations too powerful to be suppressed by the ordinary course of judicial proceedings or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State or of any other State or States, as may be necessary, to suppress such combinations, and to cause the laws to be duly executed; and the use of militia so to be called forth may be continued, if necessary, until the expiration of thirty days after the commencement of the then next session of Congress.

SEC. 3. *Provided always, and be it further enacted*, That whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith by proclamation command such insurgents to disperse and retire peaceably to their respective abodes within a limited time.

Mr. SARGENT. That act was supplemented in 1807 by one of a single section, which was signed by Jefferson as President of the United States, when Madison was Secretary of State. It provided:

That in all cases of insurrection or obstruction to the laws, either of the United States or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection or of causing the laws to be duly executed, it shall be lawful for him to employ for the same purposes such part of the land or naval force of the United States as shall be judged necessary, having first observed all the prerequisites of the law in that respect.

Acting under this provision of the Constitution and these statutes, the *de facto* governor of Louisiana, when the Legislature could not be convened, called for Federal intervention in September, 1874, against the violence of the Penn usurpation. The language of that call was as follows:

NEW ORLEANS, September 14, 1874.

To President GRANT, Washington:

Under article 4, section 4, of the Constitution of the United States, I have the honor to inform you that the State is now subject to domestic violence of a character that the State forces, under existing circumstances, are unable to suppress, and, the Legislature not being in session and not being able to be convened within the requisite time to take action in this matter, I respectfully make requisition

upon you to take measures to put down the domestic violence and insurrection now prevailing.

WM. P. KELLOGG,  
*Governor of Louisiana.*

And again subsequently, on December 9, less than one month before the *coup d'état* of Wiltz and his coconspirators, he telegraphed as follows to President GRANT:

NEW ORLEANS, *December 9, 1874.*

President GRANT, *Washington:*

Information reaches me that the White League purpose making an attack upon the State-house, especially that portion occupied by the treasurer of the State. The organization is very numerous and well armed, and the State forces now available are not sufficient to resist successfully any movement they may make. With a view of preventing such an attempt, and the bloodshed which would be likely to result should an insurgent body again take possession of the State-house and in dispersing them, I respectfully request that a detachment of United States troops be stationed in that portion of the Saint Louis Hotel which is not used for any of the State officers, where they will be readily available to prevent any such insurrectionary movement as that contemplated.

WM. P. KELLOGG,  
*Governor of Louisiana.*

In other words, the President was invoked by the State government, which he before that time had recognized under his constitutional power, to interfere with the Army of the United States, as was provided by the acts of 1807 and 1795, as was contemplated by section 4, of article 4 of the Constitution; and all the conditions being stated and as I assert and as cannot be denied, all the conditions existing, the President of the United States did intervene and send a military force in September, after issuing a proclamation, and suppressed the Penn insurrection. The then insurgents have never laid down their arms, and for that reason the Federal intervention continued. The adherents of the Penn revolt who figured in the assemblage of January 4 were engaged in further domestic violence to seize a branch of the Legislature, and it was the duty of the United States to protect the State government against them; which it did. There is hardly room for a difference about the facts.

Paley, a master of moral philosophy, lays down liberal rules to judge a certain class of misstatements. For instance, he says that falsehoods are not lies where jests are uttered; or by which an advocate asserts the justice or his belief in the justice of the cause of his client; where he asserts that his client is not guilty; where he has a cause to gain; where no one is deceived. Falsehoods in these cases he holds are not lies. Now, apply these extremely liberal rules of Paley, and we can excuse for partisan purposes almost any statement made by our democratic friends with regard to Louisiana; and there is not a violation of conscience, or in other words no lie is told. If the blacks and the white republicans can vote in Louisiana unobstructed, un-intimidated, the democratic cause is necessarily lost there. Paley says it is not a falsehood provided it is uttered with intent to gain a cause. If the White League are guilty of murdering men all over the State, if they indulge in massacres where many men fall, if they use all repressive means to encroach on the rights of republicans and make Louisiana a hell, according to Paley it is not a falsehood for their defenders to say they are not guilty. Perhaps the broader statement may be made that no one is deceived by these excuses, these palliations, these jokes about outrage-mills, this whistling grave matters down the wind, and they are not expected to deceive the Senate at least. It will be fortunate for the people of this country provided they are not deceived, and understand the spirit in which

these assertions in reference to Louisiana are made by democratic orators.

I desire to make a candid statement of the facts as I understand them, drawn from official documents, eliminating everything which I believe is disputed by any fair authority.

The Legislature of Louisiana was to meet on the 4th of January, 1875. Public and repeated threats of assassination of republican members for weeks before were made, and these were repeated and indorsed by the democratic papers of the State. A few days before A. J. Cousins, a republican member of the Legislature, was kidnaped for the purpose of preventing his participation in the organization of the Legislature, which was very close. He was carried off beyond the lake by the democratic party or its agents engaged in that work, and there kept with the nefarious purpose, by these illegal means, of controlling the organization of that Legislature. A man at that time, I think the day before, resembling a republican member of the Legislature, for his resemblance to that republican member was shot down in the streets of New Orleans. There were threats of kidnaping and assassination of other members, and attempts were made to kidnap other republican members. Information was given to the governor that organized violence was to be used to influence the organization of the house, and this caused him to put the State-house in charge of the State militia and the police. The State-house, at the time of the assembling of the Legislature, was surrounded by an excited crowd of several thousand persons.

Under these surroundings of assassination, kidnaping, threats, and military and police forces, entirely exceptional to our ideas of such assemblies, the Legislature of Louisiana met. By a law of 1872, passed by a former Legislature and approved by Warmoth, a returning board was constituted, with power to pass on the election of members and certify a roll to the secretary of state. The returning board certified to the secretary of state fifty-two republicans and fifty democrats—one hundred and two in all. The law of Louisiana relating to the organization of the house provides—

That it shall be the duty of the secretary of state to transmit to the clerk of the house of representatives and the secretary of the senate of the last General Assembly a list of the names of such persons as, according to the returns, shall have been elected to either branch of the General Assembly; and it shall be the duty of the said clerk and secretary to place the names of the representatives and senators elect so furnished upon the roll of the house and of the senate respectively; and those representatives and senators whose names are so placed by the clerk and secretary respectively, in accordance with the foregoing provisions, and none other, shall be competent to organize the house of representatives or senate. Nothing in this act shall be construed to conflict with article 34 of the constitution of the State.

Thus the one hundred and two members constituted the roll of the House, who alone were competent to organize it, and this was the roll for all purposes of organization, and was the roll to be called on the demand of any two persons named on it. Article 36 of the constitution of Louisiana provides that—

Each house of the General Assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of the members on any question, at the desire of any two of them, shall be entered on the journal.

The roll being thus made up, and the right to have the yeas and nays being thus secured, the laws of Louisiana provide for a presiding officer until the organization is completed, as follows:

That for the purpose of facilitating the organization of their respective bodies, the secretary of the senate and the chief clerk of the house of representatives shall hold over and continue in office from one term of the General Assembly to another until their successors are duly elected and qualified.



The construction of these laws is not difficult or devoid of high precedent. The law of the United States provides a roll for the same purpose of organization in the other House by the act of March 3, 1863, now existing and existing for years past, and the practice under it gives the construction to be placed on these statutes of Louisiana. The laws are almost identical—are fully identical in every important point. By the act of March 3, 1863, the law regarding the creation of a roll of the House of Representatives is as follows:

That before the first meeting of the next Congress, and of every subsequent Congress, the Clerk of the next preceding House of Representatives shall make a roll of the Representatives-elect, and place thereon the names of all persons, and of such persons only, whose credentials show that they were regularly elected in accordance with the laws of their States respectively or the laws of the United States.

As Senators well know, under this law the Clerk makes up the roll, presides until a Speaker is chosen, and always calls the yeas and nays on any demand. Mr. Vigers held over as clerk in the Louisiana house, and was quietly and fairly proceeding with his duties in calling the roll to ascertain who were present with a right to vote, there being in all one hundred and two, when Mr. Billien, a representative from La Fourche, moved to elect a temporary speaker. The clerk replied that the legal motion was to elect a speaker. There is no temporary Speaker in the House of Congress or by the laws of Louisiana, or so far as I know of any State in this Union; and the clerk unquestionably was right in stating that the motion was illegal, or rather that the legal motion was to elect a speaker. Billien paid no attention, however, and hurriedly put his motion against the protest of the republican members, the majority there assembled, and did not put any negative. Wiltz had previously taken a position near the clerk's desk, and instantly on the putting of the motion, without waiting for any announcement of the vote and disregarding the irregularity of the proceedings and the protest of the majority, sprang to the speaker's desk, pushed away the clerk, seized the gavel, and declared himself temporary speaker. As if an oath could give sanction to this high-handed illegal proceeding, a convenient justice of the peace, near the stand for the purpose, pulled out a book looking like a Bible and swore Wiltz into the office of temporary speaker—an office having no existence. Wiltz then pretended to swear in the democratic members *en masse* against the protest of the republicans. Some democratic member moved to elect a Mr. Trezevant clerk, which Wiltz declared carried, and Trezevant sprang forward and took the clerk's desk. The republicans protested and called for the yeas and nays, but Wiltz paid no attention to the call. There was a constitutional provision requiring that the presiding officer should do so, but in their eagerness the constitution was disregarded, no attention being given to the call for the yeas and nays, none to the provisions of the law or the constitution. A Mr. Flood was elected sergeant-at-arms in the same way with protests and calls for the yeas and noes; and Colonel Lowell made a point of order that the constitution allowed any two members to call the yeas and nays. Wiltz ruled the point of order not well taken. The wildest confusion reigned in the house, as it well might. As soon as Flood was thus elected sergeant-at-arms, Wiltz ordered a number of assistants to be appointed. Instantly a large number of men throughout the hall turned down the lapels of their coats, upon which were pinned blue-ribbon badges, on which was printed in gold letters "Assistant ser-

geant-at-arms," many of whom were recognized as captains of White-League companies in New Orleans and vicinity.

Thus the threats of the white-leaguers were made good and they had possession of the lower house of Louisiana. The republicans protested against this violence and lawlessness, and began to leave the hall. The democrats then swore in five members not returned by the returning board, and by their help elected Wiltz speaker, he claiming to have had 55 votes, the republicans withdrawing and not voting as they deemed the whole thing illegal. Wiltz then ordered his White-League emissary sergeants-at-arms not to allow any one to enter or leave the hall. The swearing in of these five members by that minority of the body, as I will show when I come to speak of the affairs of Arkansas, was entirely illegal, unknown to any legislative body, gave them no right to their seats, gave them no right to participate in subsequent legislation, no right to assist in the organization, because a minority can only adjourn from day to day, and here was a minority of democrats left in the hall who created themselves into a majority by this illegal proceeding. Greater commotion at once ensued, knives and pistols were drawn, and bloodshed seemed imminent. Without there was a surging mob of thousands; within there were high-handed, illegal, unconstitutional proceedings taking place in the midst of a confusion there reigning, with knives and pistols drawn, anarchy and confusion prevailing. Under these circumstances this democratic *coup d'état* was accomplished. Wiltz's object in endeavoring to prevent the republicans from leaving the hall seems to have been to compel the republicans to remain by force so as to keep a quorum in the hall to help out his arbitrary minority proceedings. To effect his object on motion of Dupre, a democrat, a committee was appointed to wait on the United States military officer and request the interference of United States troops. This request was complied with, and General De Trobriand came on the floor. He was cheered by the democrats, and Wiltz asked his aid; which was rendered, and peace was restored.

The Senator from Ohio [Mr. THURMAN] said that "in the lobby there were fifty or sixty of the worst ruffians of the republican party in the city of New Orleans." How does he know that? Who were they? What were their names? What had they done or either of them? He objects to Sheridan's phrase "banditti" applied to men described as murderers, described as men who were engaged in most nefarious outrages which the pen or tongue can depict. He says, "Why stigmatize men as banditti; the phrase is harsh; Government officers ought not to use such language;" and yet he himself speaks of the republicans who were there in the lobby as "the worst ruffians in the city of New Orleans." Let us see. I want to know if they were more ruffianly than his own party friends who kidnaped Cousins, or more ruffianly than those democrats who shot down an entirely innocent man in the street because he looked like a republican member of the Legislature? But look at the inconsistency of it. He says that a word from De Trobriand stilled these men and silenced fifty of the worst radical ruffians in the city of New Orleans. Either there are no radical ruffians in the city of New Orleans or the one side or the other of this statement is incorrect. If they were such ruffians, a mere word from the military officer would not have brought peace. If they were not such ruffians, then he does reckless injustice.

These acts of Wiltz and his coconspirators, by which the minority usurped the control of the house by force and fraud, by which the minority turned itself into a majority afterward by seating mem-

bers in violation of all parliamentary law, by calling in a United States force to put down a protest against its proceedings and overawe the majority, were a subversion of a republican form of government. The essence of republican government is the control of the majority. This was a despotic act of a desperate and unscrupulous minority—a *coup d'état*, a French institution imperial and autocratic and it cannot and must not thrive on American soil.

On the written request of the legal majority of fifty-two members the governor called on the United States troops to enable him to restore order and enable legally returned members to proceed with the organization. That call was as follows:

NEW ORLEANS, January 4, 1875.

His Excellency, WILLIAM P. KELLOGG, Governor:

SIR: The undersigned, members-elect of the house of representatives of the General Assembly of this State, assembled at the hall of the house, in the state-house, at twelve m. this day, and answered to the call made by the clerk. Immediately thereafter the chair was forcibly taken possession of, in violation of law, and an attempt was made to organize the house contrary to law. We cannot obtain our legal rights unless the members-elect are placed in possession of the hall. Whenever the hall is cleared of all persons save the gentlemen elected, we will proceed to organize. We therefore invoke your aid in placing the hall in possession of the members-elect, that we may attend to the performance of our duties.

James S. Matthews, parish of Tensas; E. W. Dewees, parish of Red River; E. L. Pierson, parish of Natchitoches; O. S. Hunsacker, parish of Saint James; V. Dickenson, parish of Saint James; P. Jones Yorke, parish of Carroll; C. W. Lowell, parish of Jefferson; J. D. Jourdain, seventh ward, parish of Orleans; R. K. Ray, parish of East Feliciana; J. Ross Stewart, parish of Tensas; L. J. Souer, parish of Avoyelles; Samuel Thomas, parish of Bossier; F. Marie, parish of Terre Bonne; James Randall, parish of Concordia; William Crawford, parish of Rapides; J. J. Johnson, parish of Caddo; Isaac Sutton, parish of Saint Mary's; Henry Demas, parish of Saint John the Baptist; C. W. Keeting, parish of Caddo; J. E. Parker, parish of Jefferson; W. G. Lane, parish of East Baton Rouge; R. Poin-dexter, parish of Assumption; M. Hahn, parish of Saint Charles; F. A. Woods, parish of West Baton Rouge; A. B. Levisse, parish of Caddo; J. W. Armistead, parish of West Feliciana; George Gracien, fifteenth ward, parish of Orleans; L. Butler, parish of Ascension; Cain Sartain, parish of Carroll; G. H. Hill, parish of Ascension; J. M. Carville, parish of Iberville; J. S. Davidson, parish of Iberville; William Ridgeley, parish of Concordia; John DeLacey, parish of Rapides; E. D. Triplet, parish of East Baton Rouge; George Drury, parish of Assumption; E. A. Hubeau, parish of Jefferson; H. Raby, parish of Natchitoches; J. Connaughton, parish of Rapides; William Murrell, parish of Madison; D. C. Hill, parish of Ouachita; W. F. Southard, parish of Ouachita; F. R. Wright, parish of Terre Bonne; Emile Honore, parish of Point Coupee; J. P. Wilson, parish of East Baton Rouge; L. W. Baker, parish of Bossier; Milton Jones, parish of Point Coupee; A. E. Milon, parish of Plaquemines; L. A. Snaer, parish of Iberia; F. M. Grant, parish of Morehouse; S. R. Fife, parish of Saint Mary's; R. F. Guichard, parish of Saint Bernard.

I have consented to sign this document on the ground that the conservative members of the house have set a precedent by appointing a special committee to wait on General De Trobriand, who immediately appeared at the bar of the house, escorted by said special committee.

ROBERT F. GUICHARD,  
Of Saint Bernard.

Under ordinary circumstances, without party excitement, no one would object to the request of a majority of a Legislative Assembly that the governor should give them possession of the hall in which they are accustomed to meet and where by law they should meet. Such aid was rendered without the use of more than a display of force. The five persons illegally seated were removed by the United States troops; that is to say, by the representation of the United States troops; for I believe that no soldier except officers entered the hall, and by the same display of force in the persons of the five officers who entered as there previously had been on the invitation of the democratic members in the person of the one officer who entered, he him-



self speaking for his staff and the soldiers under him, and he accompanied by his staff, doing no more.

Mr. BAYARD. Will the Senator allow a correction?

Mr. SARGENT. These corrections as they are called are simply speeches. The Senator will have an opportunity to be heard and I shall listen to him with great pleasure. I am stating the result of my reading of the legal documents on these matters. The Senator when he comes to reply, and his party friends also, will have abundant opportunity. I simply state that as I desire to speak at some length, I do not want to prolong my remarks to the extent that they would be if interruptions were permitted.

Mr. BAYARD. I shall not interpose.

Mr. SARGENT. I appreciate the Senator's courtesy, and I would yield to him with as much pleasure as to any other Senator.

The military returning for the purpose of removing those who were illegally seated gave an opportunity for the republican members to enter the hall from which they had been excluded by the order of Wiltz, who caused the door to be shut in their faces. I ask, and the question is pregnant, whether such an act of the military authority or any legitimate consequences to which it might have led in the way of a further display or use of force—for I seek to evade no question here—was within the purview of the constitution and laws which I have cited? If the halls of a State Legislature are sacred against the protecting power of the United States when rebellion is being made successful there, then the constitutional duty of the United States cannot be performed and each State is at the mercy of its enemies if they can possess the State capitol.

Questions of this character are not entirely new. They have been discussed by our courts and by the early writers upon the Constitution. They have been discussed in state papers. We are not left entirely in the dark with reference to the proper construction of the clause of the Constitution which I have read or the laws which were passed in pursuance of it. Mr. Madison, a former President of the United States, claimed by democrats as good authority for them, although they wander very far from his precepts and his course of thought, discussed this question in the *Federalist* under this very guarantee clause as it is called. He and the other writers of the *Federalist* and our judges have laid down the rule so clear and plain that it seems almost to require partisan perversion of the meaning of the Constitution to escape the conclusion to which they arrive. In the forty-third number of the *Federalist* written by Mr. Madison, on page 235 of the edition before me, I find a quotation of the sixth clause of the article to which I refer, namely:

To guarantee to every State in the Union a republican form of government; to protect each of them against invasion; and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence.

This is followed by his comment upon the several provisions of this clause:

In a confederacy founded on republican principles and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovation.

I pause to hear what innovation is more aristocratic than the assumption of a minority of a Legislature to take from a majority its organization, to admit members without the consent of the majority, and control subsequently thereby, for good or evil, the legislation of the State. Is not that aristocratic? Ought not, in the language of

Mr. Madison, the superintending government to have power to protect and defend the system against such aristocratic innovation?

He says:

The more intimate the nature of such a union may be the greater interest have the members in the political institutions of each other, and the greater right to insist that the forms of government under which the compact was entered into should be *substantially* maintained.

But a right implies a remedy; and where else could the remedy be deposited than where it is deposited by the Constitution? Governments of dissimilar principles and forms have been found less adapted to a federal coalition of any sort than those of a kindred nature. "As the confederate republic of Germany," says Montesquieu, "consists of free cities and petty states subject to different princes, experience shows us that it is more imperfect than that of Holland and Switzerland." "Greece was undone," he adds, "as soon as the king of Macedon obtained a seat among the Amphictyons." In the latter case, no doubt, the disproportionate force, as well as the monarchical form of the new confederate, had its share of influence on the events.

It may possibly be asked what need there could be of such a precaution, and whether it may not become a pretext for alteration in the State governments, without the concurrence of the States themselves. These questions admit of ready answers. If the interposition of the General Government should not be needed, the provision for such an event will be a harmless superfluity only in the Constitution. But who can say what experiments may be produced by the caprice of particular States, by the ambition of enterprising leaders, or by the intrigues and influence of foreign powers.

The ambition of enterprising leaders such as Wiltz seized the lower house of a Legislature with further-reaching intentions than even that; and it was within the purview of the Constitution, as stated by Mr. Madison, to prevent this very thing—to defend the system against such innovation.

To the second question it may be answered, that if the General Government should interpose by virtue of this constitutional authority, it will be of course bound to pursue the authority. But the authority extends no further than to a guarantee of a republican form of government, which supposes a pre-existing government of the form which is to be guaranteed. As long therefore as the existing republican forms are continued by the States, they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms, they have a right to do so and to claim the Federal guarantee for the latter. The only restriction imposed on them is that they shall not exchange republican for anti-republican constitutions; a restriction which, it is presumed, will hardly be considered as a grievance.

He further says—

Protection against domestic violence is added with equal propriety. It has been remarked that even among the Swiss cantons, which properly speaking are not under one government, provision is made for this object; and the history of that league informs us that mutual aid is frequently claimed and afforded, and as well by the most democratic as the other cantons. A recent and well-known event among ourselves has warned us to be prepared for emergencies of a likenature.

At first view it might seem not to square with the republican theory to suppose that a majority have not the right or that a minority will have the force to subvert a government.

They did have the force in the Legislature of Louisiana by the aid of the White Leagues which they called in, by the aid of the turbulent and restless population which they had at their back, the minority did have power to seize on the lower house of the Legislature—

And consequently that the Federal interposition can never be required but when it would be improper. But theoretic reasoning in this, as in most other cases, must be qualified by the lessons of practice. Why may not illicit combinations for purposes of violence be formed as well by a majority of a State, especially a small State, as by a majority of a county or a district of the same State; and if the authority of the State ought in the latter case to protect the local magistracy, ought not the Federal authority in the former to support the State authority? Besides, there are certain parts of the State constitutions which are so interwoven with the Federal Constitution that a violent blow cannot be given to the one without communicating the wound to the other. Insurrections in a State will rarely induce a Federal interposition, unless the number concerned in them bear some

proportion to the friends of government. It will be much better that the violence in such cases should be repressed by the superintending power—

That is to say, the Government of the United States—

than that the majority should be left to maintain their cause by a bloody and obstinate contest. The existence of a right to interpose will generally prevent the necessity of exerting it.

Is it true that force and right are necessarily on the same side in republican governments? May not the minor party possess such a superiority of pecuniary resources, of military talents and experience, or of secret succors from foreign powers as will render it superior also in an appeal to the sword?

In Louisiana the blacks with the white republicans are probably twenty thousand in the majority, and in the city of New Orleans unquestionably largely in the majority; but on account of this very superiority of pecuniary resources, of the possession of property, accustomed to rule by an unrestrained and unlicensed will taught in the school of slavery, the minority is enabled to produce these results and call for this Federal intervention of which Mr. Madison in the *Federalist* points out the likelihood, and the exercise of which he approves.

May not a more compact and advantageous position turn the scale on the same side against a superior number so situated as to be less capable of a prompt and collected exertion of its strength?

Do not these very conditions exist in Louisiana, and could any text follow closer to the exigency of things there and the necessary action of the President of the United States than is here laid down by James Madison?

Nothing can be more chimerical than to imagine that in a trial of actual force victory may be calculated by the rules which prevail in a census of the inhabitants or which determine the event of an election.

He further says:

In cases where it may be doubtful on which side justice lies, what better umpire could be desired by two factions flying to arms and tearing the State to pieces than the representatives of confederate States not heated by the local flame? To the impartiality of judges they would unite the affection of friends. Happy would it be if such a remedy for its infirmities could be enjoyed by all free governments; if a project equally effectual could be established for the universal peace of mankind.

Hamilton having the opposite political views from Madison in the early division of parties, Hamilton the federalist agreed with Madison the anti-federalist, and his discussion of this matter, on page 108, in No. 21 of the *Federalist*, I desire to call attention to. He said:

Without a guarantee, the assistance to be derived from the Union in repelling those domestic dangers, which may sometimes threaten the existence of the State constitutions, must be renounced. Usurpation may rear its crest in each State and trample upon the liberties of the people; while the National Government could legally do nothing more than behold its encroachments with indignation and regret. A successful faction may erect a tyranny on the ruins of order and law, while no succor could constitutionally be afforded by the Union to the friends and supporters of the Government. The tempestuous situation from which Massachusetts has scarcely emerged evinces that dangers of this kind are not merely speculative. Who can determine what might have been the issue of her late convulsions if the malcontents had been headed by a Cæsar or by a Cromwell.

Or if they had been headed by a Wiltz or a Marr, what would have been the result?

Who can predict what effect a despotism, established in Massachusetts, would have been upon the liberties of New Hampshire or Rhode Island; of Connecticut or New York?

The inordinate pride of State importance has suggested to some minds an objection to the principle of a guarantee in the Federal Government, as involving an officious interference in the domestic concerns of the members. A scruple of this kind would deprive us of one of the principal advantages to be expected from union, and can only flow from a misapprehension of the nature of the provision itself. It



could be no impediment to reforms of the State constitution by a majority of the people in a legal and peaceable mode. This right would remain undiminished. The guarantee could only operate against changes to be effected by violence.

By the surrounding of a legislative hall by an organized mob, as was the case in the city of New Orleans, where the white-leaguers were assembled, where hook-and-ladder companies were at hand ready with their implements to scale the windows of the senate chamber and seize that body if the *émeute* in the house succeeded, where knives and pistols were drawn, and where republican members were controlled in their ingress and egress by force—when there was such violence as to defy the State constitution and work a change in ordinary parliamentary safeguards and a recurrence to aristocratic forms or else a government by a mob—in such events the violence was that which Mr. Hamilton says the Constitution was intended to guard against.

Toward the prevention of calamities of this kind too many checks may not be provided. The peace of society and the stability of government depend absolutely on the efficacy of the precautions adopted on this head.

This matter was discussed at great length in the case of *Luther vs. Borden*, 7 Howard, page 42, by Chief Justice Taney, certainly good democratic authority; a man that all democrats would insist was, and I dare say with a single exception and perhaps without exception republicans would admit, above reproach. In the Rhode Island case he had occasion to pass upon a kindred question, upon the power of the General Government under the guarantee clause of the Constitution and under the laws which I have cited. He said, on page 42 of 7 Howard:

So, too, as relates to the clauses in the above-mentioned article of the Constitution providing for cases of domestic violence. It rested with Congress, too, to determine upon the means proper to be adopted to fulfill this guarantee. They might, if they had deemed it most advisable to do so, have placed it in the power of a court to decide when the contingency had happened which required the Federal Government to interfere. But Congress thought otherwise, and no doubt wisely; and by the act of February 28, 1795, provided that "in case of an insurrection in any State against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, (when the Legislature cannot be convened,) to call forth such number of the militia of any other State or States, as may be applied for, as he may judge sufficient to suppress such insurrection.

By this act, the power of deciding whether the exigency had arisen upon which the Government of the United States is bound to interfere, is given to the President. He is to act upon the application of the Legislature or of the executive, and consequently he must determine what body of men constitute the Legislature, and who is the governor, before he can act. The fact that both parties claim the right to the government cannot alter the case, for both cannot be entitled to it. If there is an armed conflict, like the one of which we are speaking, it is a case of domestic violence, and one of the parties must be in insurrection against the lawful government. And the President must, of necessity, decide which is the government and which party is unlawfully arrayed against it before he can perform the duty imposed upon him by the act of Congress.

That decision the President had made. That decision he did not make on the 14th of September last or the 4th of January last, but had made months and months before; and had announced his conclusion. When there was an insurrectionary attempt on the 14th of September, called the Penn insurrection, to overthrow the State government of Louisiana, it was in spite of the recognition by the President under the Constitution and laws of the United States which the Supreme Court here say it was his province to make. The court proceed:

After the President has acted and called out the militia, is a circuit court of the United States authorized to inquire whether his decision was right? Could the

court, while the parties were actually contending in arms for the possession of the Government, call witnesses before it and inquire which party represented a majority of the people? If it could, then it would become the duty of the court (provided it came to the conclusion that the President had decided incorrectly) to discharge those who were arrested or detained by the troops in the service of the United States or the Government which the President was endeavoring to maintain. If the judicial power extends so far, the guarantee contained in the Constitution of the United States is a guarantee of anarchy, and not of order. Yet if this right does not reside in the courts when the conflict is raging, if the judicial power is at that time bound to follow the decision of the political, it must be equally bound when the contest is over.

In other words, it is bound all the way through, and the decision of the President is constitutional. Of course it is under the sanctions of his oath and the responsibilities of his office, and in performing that duty he does not assume the functions of a Cæsar who should have his robes stripped from him. He is simply performing his constitutional duty as President of the United States. So says Chief Justice Taney. But it comes so easily and so gratefully from democratic orators when there is any attempt made to fulfill the guarantees of the Constitution, to protect a State from domestic violence, such as we have seen of late, to say, "Here is a Cæsar; here is an unconstitutional act; this is a violation of law and of the Constitution; and the people of the United States ought to rise and strip the robes of this Cæsar from him." Then tear down the monument erected to Taney; take his bust from the Supreme Court room; defile his memory with your opprobrium and obloquy; tear the pages written by Madison and Hamilton from the *Federalist*; blot the proudest record of your whole country and the proudest sentiments ever uttered in defense of liberty and in defense of the Constitution, and you may be consistent; but you are not consistent at this late day in reversing all the teachings of the fathers while pretending to revere and follow them. You assume to raise this cry against the President of the United States for treading in the footsteps where they trod and in the paths which they marked out.

The court say:

It cannot, when peace is restored, punish as offenses and crimes the acts which it before recognized, and was bound to recognize, as lawful.

The court say further:

It is said that this power in the President is dangerous to liberty and may be abused. All power may be abused if placed in unworthy hands. But it would be difficult, we think, to point out any other hands in which this power would be more safe and at the same time equally effectual. When citizens of the same State are in arms against each other, and the constituted authorities unable to execute the laws, the interposition of the United States must be prompt or it is of little value. The ordinary course of proceedings in courts of justice would be utterly unfit for the crisis.

Ordinary proceedings of course would be entirely unfit for the crisis. It requires the President to act, and how act? The Constitution says he shall protect, but how protect? The laws come in and say by the use of the Army of the United States. The law authorizing the militia was changed by the anti-federalists to the Army of the United States. He must act promptly, effectually, and by the Army of the United States; and yet for so doing he is denounced as a Cæsar and his acts as anti-republican.

The ordinary course of proceedings in courts of justice would be utterly unfit for the crisis. And the elevated office of the President, chosen as he is by the people of the United States, and the high responsibility he could not fail to feel when acting in a case of so much moment, appear to furnish as strong safeguards against a willful abuse of power as human prudence and foresight could well provide. At all events it is conferred upon him by the Constitution and laws of the United States, and must therefore be respected and enforced in its judicial tribunals.

Ay, sir, and should therefore be respected by Senators of the United States and the Senate of the United States, and they should not teach the people to look upon it with contempt or with suspicion, if it is constitutional, conferred by the Constitution and the laws of the United States.

Now, to show that this very anticipation of Chief Justice Taney in the case of *Luther vs. Borden*, of the manner in which a President of the United States, and even this President thus denounced, would look upon the necessary and constitutional exercise of this power, however unwilling under any circumstances even so grave as these to exercise it, I call attention to a single passage in the recent message of the President of the United States:

I have no desire to have United States troops interfere in the domestic concerns of Louisiana or any other State.

On the 9th of December last Governor Kellogg telegraphed to me his apprehensions that the White League intended to make another attack upon the State-house, to which, on the same day, I made the following answer, since which no communication has been sent to him:

"Your dispatch of this date just received. It is exceedingly unpalatable to use troops in anticipation of danger. Let the State authorities be right, and then proceed with their duties without apprehension of danger. If they are then molested, the question will be determined whether the United States is able to maintain law and order within its limits or not."

I have deplored the necessity which seemed to make it my duty under the Constitution and laws to direct such interference. I have always refused except where it seemed to be my imperative duty to act in such a manner under the Constitution and laws of the United States. I have repeatedly and earnestly entreated the people of the South to live together in peace, and obey the laws; and nothing would give me greater pleasure than to see reconciliation and tranquillity everywhere prevail, and thereby remove all necessity for the presence of troops among them. I regret, however, to say that this state of things does not exist, nor does its existence seem to be desired in some localities; and as to those it may be proper for me to say that, to the extent that Congress has conferred power upon me to prevent it, neither Ku-Klux-Klans, White Leagues, nor any other association using arms and violence to execute their unlawful purposes, can be permitted in that way to govern any part of this country; nor can I see with indifference Union men or republicans ostracized, persecuted, and murdered on account of their opinions, as they now are in some localities.

Show me the man who dares stand up in the face of the American people and say that the sentiments of the extracts I have read are not just and humane, that they do not do honor to the head and heart of the President of the United States? Who looks with indifference upon the murder of Union men for their political opinions? Who desires to see Ku-Klux-Klans, or White Leagues, or any other association of men use arms and violence to enforce unlawful and illegal purposes? At the same time, while it is repugnant to his feelings to use military force to compel obedience to the laws, he recognizes it as a constitutional duty. In this very case referred to in *Luther vs. Borden* a former President of the United States wrote a letter to Governor King, of Rhode Island, who represented the charter government, and in that letter President Tyler said:

I have, however, to assure your excellency that should the time arrive (and my fervent prayer is it may never come)—

In the very spirit in which his successor, President Grant, speaks of the regret with which he sees these things transpire—

when an insurrection shall exist against the government of Rhode Island, and a requisition shall be made upon the Executive of the United States to furnish that protection which is guaranteed to each State by the Constitution and laws, I shall not be found to shrink from the performance of a duty which, while it is most painful, is at the same time most imperative. I have also to say that in such a contingency the Executive could not look into any real or supposed defects of the existing government, in order to ascertain whether some other plan of government pro-



posed for adoption was better suited to the wants and more in accordance with the wishes of any portion of her citizens.

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It will be my duty, on the contrary, to respect the requisitions of that government which has been recognized as the existing government of the State through all time past, until I shall be advised in a regular manner that it has been altered and abolished and another substituted in its place, by legal and peaceable proceedings, adopted and pursued by the authorities and the people of the State.

Thereby stating his belief in the existence of the power, the painful duty which would be put upon him to exercise it and use the Army of the United States to put down domestic violence in that State and protect the authority which he recognized as the existing authority. The people of the State by a large majority had adopted another constitution formed by a convention called by means not provided by the constitution itself, and President Tyler, with the assent of the democratic party at that time—I believe without the dissent of any strong party in Congress, because a resolution to censure him for his course failed in the House of Representatives—President Tyler stated his readiness to intervene with military force and thus put things back as they were, or rather to maintain the existing order of things against the will of the people of the State. I say that the President recognized this, as have all his predecessors and the law writers on the Constitution and the judges, as a constitutional duty. If it is a constitutional duty, that duty carries with it the legal right, and implies all the requisite means to discharge it. The guarantee clause gives the power. The emergencies which give rise to exercises of this power are exceptional, but the means are ample. I have already quoted from the opinions of Alexander Hamilton. In a most able and exhaustive opinion of his as Secretary of the Treasury, upon the constitutionality of the United States Bank, in a letter written to President Washington, he discussed the nature of the power granted by the Constitution to effect any particular object, holding that the end itself being clearly recognizable in the Constitution, the force is conveyed by the Constitution, sovereign in its nature, to give full effect to that power which is thus conferred. I ask the Secretary to read what I have marked on pages 95 and 96 of the book which I send to the desk.

The Secretary read as follows:

Now, it appears to the Secretary of the Treasury that this *general principle* is *inherent* in the very definition of government, and *essential* to every step of the progress to be made by that of the United States, namely, that every power vested in a government is in its nature *sovereign*, and includes, by *force of the term*, a right to employ all the means requisite, and fairly applicable, to the attainment of the *ends* of such power, and which are not precluded by restrictions and exceptions specified in the Constitution, or not immoral or not contrary to the essential ends of political society.

This principle, in its application to government in general, would be admitted as an axiom; and it will be incumbent upon those who may incline to deny it to prove a distinction, and to show that a rule which in the general system of things is essential to the preservation of the social order is inapplicable to the United States.

The circumstance that the powers of sovereignty are, in this country, divided between the national and State governments does not afford the distinction required. It does not follow from this that each of the portions of *power* delegated to the one or to the other is not sovereign with regard to its proper objects. It will only follow from it that each has sovereign power as to *certain things*, and not as to *other things*. To deny that the Government of the United States has sovereign power as to its declared purposes and trusts, because its power does not extend to all laws, would be equally to deny that the State governments have sovereign power in *any case*, because their power does not extend to *every case*. The tenth section of the first article of the Constitution exhibits a long list of very important things which they may not do; and thus the United States would furnish the singular spectacle of a political society without *sovereignty*, or of a people governed without government.

If it would be necessary to bring proof to a proposition so clear as that which affirms that the powers of the Federal Government as to its objects are sovereign, there is a clause of its Constitution which would be decisive; it is that which declares that the Constitution and the laws of the United States made in pursuance of it and all treaties made, or which shall be made, under their authority shall be the *supreme law of the land*. The power which can create the supreme law of the land in any case is doubtless sovereign as to such case.

Mr. SARGENT. Mr. President, democratic sanction to the exercise of such power by a President of the United States is recent. After the cessation of hostilities on the 21st of May, 1865, President Johnson authorized General Canby to telegraph to the commander of the Department of the Mississippi as follows:

You will prevent by force, if necessary, any attempt of any of the Legislatures of the States in insurrection to assemble for legislative purposes, and will imprison any members or other persons who may attempt to exercise these functions in opposition to your orders.

President Johnson authorized General Canby, the commander of the Department of Mississippi, to arrest legislators or any person who should abet legislators in assembling for legislative purposes; and this was months after the surrender of the rebel army. I say that there is democratic sanction for this precedent. Why? Because the then ensuing democratic national convention passed a resolution indorsing Johnson's administration for its regard for and preservation of the Constitution of the United States. I do not think there is an answer for it that this man was President of the United States and had some patronage and it was an object to tickle his elbow or please his fancy and induce him to favor the democratic party. If that was so, then it was the lowest kind of political scheming. That was so, or else it was an intelligent indorsement, or unintelligent, as you please, of the administration of Andrew Johnson, of the constitutionality of his proceedings when he employed the Army of the United States to prevent the assembling of Legislatures and arrested the members.

Mr. MORTON. Will my friend from California yield to me a moment?

Mr. SARGENT. Yes, sir.

Mr. MORTON. I desire to give notice that I will ask the Senate on to-morrow not to adjourn until this resolution has been disposed of.

Mr. HAMLIN. To-morrow?

Mr. STEVENSON. To-morrow has been set apart for the funeral ceremonies of Mr. HOOPER.

Mr. MORTON. I was not aware of it.

Mr. HAMLIN. I saw in the papers that at four o'clock and forty minutes notice of the decease of Mr. HOOPER will be communicated to the House, and I saw in the papers also that the services will be in the Hall of the House to-morrow. I presume the House will send a resolution here acquainting us of these facts and requesting the attendance of the Senate to-morrow. If so, then the Senator's suggestion can hardly be carried out to-morrow.

Mr. MORTON. Unless the Senate might meet afterward.

Mr. HAMLIN. I do not know but that it might take a recess for the purpose.

Mr. STEVENSON. I hardly think we should do that. I hope the Senator from Indiana will not fix to-morrow; at least out of respect to Mr. HOOPER, who will be buried from the House.

Mr. MORTON. Of course, I do not want to violate any of the proprieties; but the time of the session is so limited, if we expect to

do anything with this resolution, we shall have to remain here until it is disposed of when we next take it up.

Mr. SAULSBURY. I understand several Senators desire to speak upon it—

Mr. SARGENT. I believe I am entitled to the floor.

The PRESIDENT *pro tempore*. The Senator from California is entitled to the floor.

Mr. SARGENT. Mr. President, in the same manner that they approved the act of President Johnson in this military interference with the Legislatures of Mississippi and elsewhere they approved McClellan's order to arrest the Maryland Legislature, which was a non-seceded state, which never did sunder its relations with the Union, which, by any logic which they would admit, was entitled to all its rights as, in their own phrase, a sovereign State. But he gave these orders and they were executed, and they hastened to nominate him for President of the United States. So, as I say, we not only have the teaching of the fathers on this point so plain it cannot be misunderstood, but we have the assent of the democratic party in their great national conventions where they meet for the very purpose of exchanging views and picking out the men who according to their ideas are most faithful to the Constitution.

Passing from this, however, I say that under the Constitution of the United States the right and duty of the United States to intervene to protect a State against domestic violence cannot be questioned. There is no limit as to place of intervention. A legislative hall is not excepted by the Constitution, and may be, as in this case, the most necessary place for its exercise. Stress has been laid by our democratic friends upon the idea that here was an attempt by the military to decide who were entitled to seats in the hall; that they were made to decide upon contested elections. There is no integrity in the idea whatever. The military were used simply to protect the majority of the Legislature in their right to the possession of the hall against intruders who would illegally destroy their authority as a majority of the body. There was a duty on the part of the Government to enforce the laws of the State of Louisiana, so set down in the law of the United States following the guarantee clause of the Constitution. There was a right of the majority to have the presiding officer named by the law to preside until an organization was effected, to have the roll called, to have honor, honesty, decency and fair play in the organization of that house. All these laws and the laws of Louisiana required it, and the military was simply called in to clear the hall of those who had intruded to seats there and who were not members of the house. They had the same right to do this that they would have had to protect the returning board as it was sitting listening to the arguments of democratic and republican lawyers on contested seats and contested questions, if the mob had attempted to break them up. If a White League or an organized force had attempted to break up the returning board the military would have had the right, it would have been their duty, under the guarantee clause, to have protected the returning board in this necessary discharge of its functions, to see that none intruded into its deliberations, usurped its functions, or broke up its sessions. But is it not audacious for those rioters who were guilty of the fraud and the force which took place there, who were guilty of the crimes which were staining then and there the legislative history of the Legislature, who were brandishing their knives and pistols, the agents of a passionate mob outside who were encouraging their proceedings by their hideous yells—is it not



audacious for these men or those who apologize for them to complain of those measures which were taken to reduce them to submission to the laws? They are the complaining parties, not the majority of the Legislature of Louisiana, none of the fifty-two members who were entitled to seats there. Those who complain are the White-League sergeants-at-arms who turned down the lapels of their coats on the instant and showed the preconcert by which they were there to produce these very results. Those who complain are the mob and the minority on that floor who had usurped the right to organize the house, and sought to effect it by force and fraud.

This seizure of the house was but part of a plan to invade the senate and seize the rest of the government. The President in his message says with regard to this:

Nobody was disturbed by the military who had a legal right at that time to occupy a seat in the Legislature. That the democratic minority of the house undertook to seize its organization by fraud and violence; that in this attempt they trampled under foot law; that they undertook to make persons not returned as elected members, so as to create a majority; that they acted under a preconcerted plan, and under false pretenses introduced into the hall a body of men to support their pretensions by force, if necessary, and that conflict, disorder, and riotous proceedings followed, are facts that seem to be well established, and I am credibly informed that these violent proceedings were a part of a premeditated plan to have the house organized in this way, recognize what has been called the McEnery senate, then to depose Governor Kellogg, and so revolutionize the State government.

Was it not the duty of the Government to interfere under circumstances like these? Most of these facts are patent upon the face of them, and the only one added is that by the President, who states it on reliable authority. The seizure of the house was simply an incident of the plan by which the senate was to be revolutionized, by which the State government was to be overthrown. Now what becomes of the guarantee clause of your Constitution, what becomes of the decision of your Supreme Court if all this power in the Constitution falls powerless before an attempt like this? It is a mere farce, and as I said before, any power designing to subvert a State government can succeed in its ends provided by force or fraud it can get possession of the State capitol.

But these events in Louisiana are not to be treated as the whole case. They are but one incident to a long train of circumstances which must be understood to see what the Government was resisting in New Orleans. On the 14th of last September, after a demand on the governor to resign, in an insurrection against the State government, fifteen policemen were killed and thirty wounded. The intervention of Federal soldiers restored peace. I have already shown that Governor Kellogg at that time, under article 4, section 4, of the Constitution, made a requisition for United States aid. The armed organizations continued having large quantities of arms which they had captured from the State militia and which they never have surrendered although required to do so by a proclamation of the President of the United States. They retain them at this time as implements of warfare against the State and National Government.

Democratic Senators have sneered at the idea that the call for troops covered the action of January 4, that the call on September 14 related to and continued down to January 4. Let us see. There is a parallel in the case of Pennsylvania in 1794, when Washington was President of the United States. Edmund Randolph was Secretary of State, and by direction of the President, August 30, wrote to Governor Mifflin, of Pennsylvania, on this very question of continuing forces in the field even after the dispersion of those en-

gaged in resisting the laws; and I quote from Hamilton's Works, page 22, *et passim*.

Mr. STEVENSON. What volume?

Mr. SARGENT. Volume 5. I ask the Secretary to read what I have marked.

The Secretary read as follows :

There remains only one point on which your excellency will be longer detained; a point, indeed, of great importance, and consequently demands serious and careful reflection. It is the opinion you so emphatically express, that the mere dispersion of the insurgents is the sole object for which the militia can be called out, or kept in service after they may have been called out.

The President reserves to the last moment the consideration and decision of this point.

But there are arguments weighing heavily against the opinion you have expressed, which, in the mean time, are offered to your candid consideration.

The Constitution of the United States (article 1, section 8) empowers Congress "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;" evidently from the wording and distribution of the sentence contemplating the execution of the laws of the Union as a thing distinct from the suppression of insurrections.

The act of May 2, 1792, for carrying the provision of the Constitution into effect adopts for its title the very words of the Constitution, being "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," continuing the constitutional distinction.

The first section of the act provides for the cases of invasion and of insurrection, confining the latter to the case of insurrection against the government of a State. The second section provides for the case of the execution of the laws being obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings or by the powers vested in the marshals.

The words are these: "Whenever the laws of the United States shall be opposed or the execution thereof obstructed in any State by combinations too powerful to be suppressed by the ordinary course of judicial proceedings or by the powers vested in the marshals by this act, the same being notified to the President of the United States by an associate judge or the district judge, it shall be lawful for the President of the United States to call forth the militia of such State to suppress such combinations and to cause the laws to be duly executed." Then follows a provision for calling forth the militia of other States.

The terms of this section appear to contemplate and describe something that may be less than insurrection. "The combinations" mentioned may indeed amount to insurrections, but it is conceivable that they may stop at associations not to comply with the law, supported by riots, assassinations, and murders, and by a general spirit in a part of the community which may baffle the ordinary judiciary means, with no other aid than the *posse comitatus*, magistrates, and officers in the execution of their duty. And the objects for which the militia are to be called are expressly not only to suppress these combinations, (whether amounting to insurrections or not,) but to cause the laws to be duly executed.

It is therefore plainly contrary to the manifest general intent of the Constitution and of this act, and to the positive and express terms of the second section of the act, to say that the militia called forth are not to be continued in service for the purpose of causing the laws to be duly executed, and, of course, till they are so executed.

What is the main and ultimate object of calling forth the militia? "To cause the laws to be executed." Which are the laws to be executed? Those which are opposed and obstructed in their execution by the combinations described in the present case—the laws laying duties upon spirits distilled within the United States, and upon stills; and incidentally those which uphold the judiciary functions. When are the laws executed? Clearly when the opposition is subdued; when penalties for disobedience can be enforced; when a compliance is effectuated.

Would the mere dispersion of insurgents and their retiring to their respective homes do this? Would it satisfy either member of the provision, the suppression of the combinations, or the execution of the laws? Might not the former, notwithstanding the dispersion, continue in full vigor, ready at any moment to break out into new acts of resistance to the laws? Are the militia to be kept perpetually marching and countermarching toward the insurgents while they are embodied, and from them when they have separated and retired? Suppose the insurgents, hardy enough to wait the experiment of a battle, are vanquished, and then disperse and retire home, are the militia immediately to retire also to give them an opportunity to reassemble, recruit, and prepare for another battle? And is this to go on and be repeated without limit?

Such a construction of the law, if true, were certainly a very unfortunate one,

rendering its provisions essentially nugatory, and leading to endless expense and as endless disappointment. It could hardly be advisable to vex the militia by marching them to a distant point, where they might scarcely be arrived before it would be legally necessary for them to return, not in consequence of having effected their object—of having “caused the laws to be executed”—but in consequence of the mere stratagem of a deceitful dispersion and retiring.

Mr. SARGENT. On the 14th of September last there was a demand on the governor by a committee of thirty appointed by a meeting held in New Orleans that he resign his office. He declined. There was then an insurrection in the streets of New Orleans. I will say to my friend from Kentucky, [Mr. McCREERY,] who remarks to me, *sotto voce*, that there was no insurrection there, and hence it was not a parallel case, that there was insurrection in New Orleans, there were men killed and wounded there by the scores, and the demand they made at their meetings was the overthrow of the State government. What constitutes an insurrection? Is it not the rising of citizens, of the populace, against the government? Is it not enforcing their demand by blood? Is it not demanding the subversion of the government? Then if an insurrection existed there, and certainly there was much more of one than there was in Pennsylvania, where it was simply resistance to the excise law, where I believe there was nobody killed, nobody hurt, or in extremely rare instances if at all—if that in Pennsylvania which Randolph refers to was an insurrection, then for God's sake how much more important was the insurrection which took place on the 14th of September in Louisiana, in the city of New Orleans, when these consequences of which I speak occurred? Of course those who were killed were only republicans; they may have been only negroes. It may not amount to insurrection to kill men of that sort although the object is to subvert a government, and those who were killed were the men who maintained it; but in my mind it is an insurrection.

In Pennsylvania, by the express order of President Washington, the troops were kept in the field after the dispersion of the insurgents or those who were resisting the excise law. Says Alexander Hamilton in his letter to Lee, who was commanding the forces:

BEDFORD, October 20, 1794.

SIR: I have it in special instruction from the President of the United States now at this place, to convey to you the following instructions for the general direction of your conduct in the command of the militia army, with which you are charged.

After giving other directions, he says:

When the insurrection is subdued, and the requisite means have been put in execution to secure obedience to the laws, so as to render it proper for the Army to retire, (an event which you will accelerate as much as shall be consistent with the object,) you will endeavor to make an arrangement for detaching such force as you deem adequate, to be stationed within the disaffected country in such a manner as best to afford protection to well-disposed citizens and to the officers of the revenue, and to repress by their presence the spirit of riot and opposition to the laws.

Now, that is just what President Grant did after the 14th of September. When by his proclamation the insurgents had been dispersed by the show of military force which was made there and quiet was restored, although the insurgents did not give up the arms which feloniously they had taken from the State authorities, he kept the Army there as a corps of observation, “to afford protection to well-disposed citizens, and to repress by their presence the spirit of riot and opposition to the laws,” and so they were there and so continuing to the 4th day of January, 1875. So Sheridan found them when he went there and spoke of the condition of things and the banditti which were traversing that State. O, yes; that is a terrible phrase, this word “banditti!” How is it possible that a man of Sheridan's



character could have uttered it? I find in a letter of Edmund Randolph, written by the direction of Washington, to Mifflin, governor of Pennsylvania, these words applied to the persons who were resisting the laws of Pennsylvania:

An armed banditti—

He says—

in disguise, had recently gone to the house of an officer of the revenue in the night, attacked it, broken open the doors, and, by menaces of instant death, enforced by pistols presented at him, had compelled a surrender of his commission and books of office.

This word is, contemporary with Washington's administration, applied to lawless men who go about with arms at night to interfere with officers of the Government in the discharge of their duty, to put peaceable and well-disposed citizens in peril of their lives. More than that in the case of Louisiana; less than that even in Pennsylvania. If Edmund Randolph, Secretary of State of Washington, writing under Washington's orders, could properly use the word "banditti" as applied to men engaged in any such triflingly dangerous proceedings compared with those in Louisiana, with how much more terrible force comes the truthfulness in the condemnation of Sheridan when he applies it to these men who have deluged the State of Louisiana with republican blood, who have driven at one election twenty thousand men from the polls in terror for their lives, who have driven them to the woods to subsist upon roots and acorns or any means which they could get by fugitive processes hiding in terror of their lives, who within a few days of one election killed hundreds of men, who finally on the 14th of September after many atrocities which they had committed leading up to the event overturned the State government, and who were driven from the power which they had usurped by the United States forces, by the terror of the intervention, under the guarantee clause, of the President of the United States. I ask if the word banditti is not properly used under such circumstances, and if Sheridan has not an illustrious precedent for the use which he makes of it?

This September insurrection to which I refer is not all the picture by any means. The city for months had been a scene of a reign of terror to prevent the voting and registration of republicans. Large bodies of armed men traversed the republican districts, murdering worthy and inoffensive men, as at Coushatta where they assassinated Twitchell, a planter in Red River Parish; Eggleston, sheriff; Dewees, supervisor; and Holland and Howells, lawyers, two of them southern born. We all know how that was done, these men being promised a safe escort after it was demanded that they should leave the State and resign the offices to which they had been legally and fairly elected. They being under safe escort, as promised, were murdered on their way to the State boundary. Time would fail to recount all the assassinations for political purposes attending the last election in Louisiana, and democratic Senators' ears are offended by the cry of murder, murder! Do you not think we are tired of the fact of murder, murder? If it is painful for your ears to hear it, is it not painful for us to know that it is committed?

On the general state of society the testimony of Ruford Blunt, recently a State senator, residing in Natchitoches, taken by the House committee recently at New Orleans, is impressive. Describing affairs in the last registration and election in that parish, he says:

I seldom slept at home; other colored men remained in the woods after the registering office closed; about five hundred colored men did not register; some of

those who registered could not vote because the registering officer spelled their names wrongly; there was a reign of terror up to election day; I resigned my position as senator to save my life; there is a petition in my parish asking Congress to do something to protect colored people; the colored men believe that the whites intend to reduce them to slavery again.

On election day many of my people were prevented from voting as they chose, and some of them voted the White League ticket; they voted that way to save themselves; without the presence of troops on election day, I think not more than five hundred colored men could have voted; the white people agreed to employ men who voted the democratic ticket first, and next, men who did not vote at all; the public schools in Natchitoches are free, and at present colored children attend them more regularly than white children; the colored people in the parish would not be safe under democratic rule; I know ten colored men who voted the democratic ticket; the hatred of the people is directed against both negroes and republicans; I don't believe that a good democrat from the North during the last campaign could have canvassed the parish in safety if he had favored fair measures and deprecated intimidation; the planters and merchants generally manage to swindle the negroes out of their earnings; the feeling of distrust on the part of the colored people of the whites was not suggested to them by the republicans.

William H. Maxey testified before that committee a very important thing, so far as McEnery was concerned, it seems to me. I have a short extract from his testimony, which I have separated from the rest:

It was impossible to have a fair registration and election. Last year, when Mr. McEnery made a speech in Homer and one in Winn, about half way through his speech he said there were too many Maxeys and Blackburns; if some of them were hung it would be a good thing.

Here was on the part of this man, pretending to have been elected governor of the State, an inciting to these very atrocities to which I have referred. Suppose Governor Allen, of Ohio, or some other governor, should in the face of an election, during a heated canvass, make a suggestion in reference to his opponents or those who were organizing the opposition party, endeavoring to prevail in the election, that it would be better if they could be hung or made away with or got out of the way, there were too many of them; how would the people of Ohio and the whole North recoil with horror at such a suggestion! We have been so accustomed to this White-League ruffianism in the South that we look on these things almost with indifference when they occur there.

Here is the testimony of the editor of the *Caucasian*, a violent, outspoken White-League editor, in which he makes few concealments:

NEW ORLEANS, February 5.

In the cross-examination of Mr. Hunter, the editor of the *Caucasian*, before the congressional committee yesterday, Mr. FRYE read several extracts from that paper and asked witness if such extreme ideas were his opinions, and he replied in the affirmative. Witness said, "My associate editor participated in the Grant Parish massacre; the republican newspaper was mobbed and material destroyed; the persons who did it were employes of the democratic newspaper; my father, R. Hunter, is a last-ditch democrat." The letter now produced stating that there was intimidation of men in Rapides Parish at the election is in the handwriting of R. A. Hunter, who being present, and stating that the letter was private and not intended for publication, Mr. FRYE withdrew it.

To Mr. HOAR. We were prepared with force if it was necessary to seat our candidates—

I suppose he refers to the Legislature—

if the police had not interfered we should have left the members to settle it themselves; if the police had interfered and the United States troops had not been present there would have been somebody hurt; on the 4th of January I was prepared myself to come down with ten or twelve armed men to protect our members in their rights as we considered them; I had been through the war, and for myself could hold my own; fifty-nine colored men were killed at Colfax and two white men died; the *Caucasian* praised the men who took part in the Colfax massacre; I approved of it, as most of our people did; my paper counseled resistance to United

States troops in a certain emergency; had not the Colfax affair ended as it did, not less than a thousand niggers would have been killed later.

He says :

I approved of the Colfax massacre, as did most of our people.

Should any republican Senator on this floor say that these scenes of violence, the Colfax massacre, the Coushatta affair, the killing of fifty or one hundred men at Vicksburgh the other day, were approved by most of the southern people or most of the people of Louisiana, we should be accused with open throats of slandering the southern people; but here their own spokesman says most of our people approved of this thing—approved of these bloody deeds.

These were the means thus referred to, the suppression of registration, the suppression of voting, and the murdering of the political rights of a party in the State, and that the majority party, as is obvious; for if it was not a majority, there would be no necessity for the use of such means; these means being in use, Senators boast of the election of men to the Legislature by means like these. They say, "O, well, notwithstanding all you say, these five men who were not returned by the returning board were elected; and if they had counted in others who were elected, we would have had an unquestionable majority even without the five." If you will kill off all the republicans, white and black, of course you will have a majority; but I say it is not by means like these that legislative bodies are to be elected, but such means as these poison the very fountain of the law-making power; it becomes the will of a mob, an armed mob, a ruthless, cruel mob, a mob as cruel as that which dominated in the Reign of Terror in France, and without the regularity which that had. The principle of *Magna Charta*, away back in the time of King John, in 1215, protests against proceedings like these. In article 39 of the Great Charter signed at Runnymede, on the 18th of June, 1215, by "John, by the grace of God King of England, Lord of Ireland, Duke of Normandy, Aquitaine, and Count of Anjou," in the presence of the "Army of God and Holy Church," it was promised.

39. No freeman shall be taken or imprisoned, or disseized, or outlawed, or banished, or any ways destroyed, nor will we pass upon him, nor will we send upon him, unless by the lawful judgment of his peers, or by the law of the land.

"Shall not be destroyed from the land!" What are you doing but destroying men from the land in Louisiana, destroying men of one political sentiment for their political sentiments? Is there anything in civilization, anything in the laws sanctioned by the public judgment of mankind since the world emerged from barbarism, that does not protest against these deeds in Louisiana?

The PRESIDING OFFICER, (Mr. Howe in the chair.) The Senator will suspend until the Chair receives a message from the House of Representatives.

Mr. SARGENT. Certainly.

#### DEATH OF HON. SAMUEL HOOPER.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, communicated to the Senate intelligence of the death of Hon. SAMUEL HOOPER, late a member of the House from the State of Massachusetts, and transmitted the resolutions of the House thereon.

[The Senate, out of respect to the memory of Mr. HOOPER, thereupon adjourned.]



Mr. SARGENT. Mr. President, at the conclusion of my remarks yesterday I was endeavoring to show the vindictiveness of the White Leagues and their cruel operations in Louisiana. I desire to show that that vindictiveness is against republicans, white as well as colored, and native as well as northern; and to this point I cite the testimony of E. L. Pierson, who before the House committee testified to intimidation, murders, &c., in his parish, during which he recounted the attempt upon his life, first stating that he lived in Natchitoches since boyhood and that formerly his politics were democratic, but prior to the last election he was a republican; that for his change of sentiment he was ostracized even by a resolution adopted at a public meeting; that he came there; was appointed by Kellogg judge of the parish and returned, and was met within sixteen miles of his own home and told not to go home; he did go, and a number of his friends there told him not to attempt to discharge the functions of his office, that his life was in danger because of his being a republican. On going to his office next day he learned that his life would be attempted, and received a note from his wife asking him to come home; then his wife came, and he went; that his sister told him two armed men were lurking about the place, as she guessed, to take his life; that forty armed men were in town, and that she heard these two swear that they came there to kill him, and that he should not sit as judge; soon after that the committee of seventy held a meeting and sent a committee to his house to demand of him that he sign a written agreement not to take part in the coming campaign, which he declined doing, whereupon one of the committee pulled out his watch and told him that he had half an hour in which to sign a paper; that he refused, telling them if they meant to assassinate him to do it at his office or on the street, and to spare his family from witnessing the murder. That during the campaign he was insulted time and again; when he went to make a speech men congregated with bowie-knives in sight, but on the approach of a company of cavalry they secreted their arms. There was not, continued witness, a fair registration in the parish; republicans were prevented from taking an active part in the campaign; a mass meeting was held, and from that a committee was sent to call for the resignations of the parish officers, and threats were made to hang one of them. He then recounted the attempts made to take his life in the night; the votes were being counted when he was retracked to the court-house; reached his home and was kept there a week, fearing to leave lest his life be taken; finally escaped, but learned that two Texas desperadoes had resolved to take his life.

He testifies further to the same effect, but this I detail to show that a white resident from boyhood in that country, simply for being a republican, is harassed and threatened with murder to deter him from ordinary political action. But I ask why is there this general denunciation of northern men in the South? Have not our people a right to move from State to State? Have they not a right to carry their political principles? The Senator from Georgia [Mr. GORDON] denies that there is contempt and ostracism of northern republicans in Georgia, and as a proof he cites a telegram from a man who says he is treated better than he deserves. A true northern gentleman would not be likely to use such an expression. It sounds like those who—

Crook the pregnant hinges of the knee,  
Where thrift may follow fawning.

But by a mode or trick of expression the Senator betrayed the accustomed contempt of northern men entertained in his region by men

of his political principles by speaking in his remarks of "a northern man *but* a gentleman." To his telegrams I cite a speech of his colleague [Mr. NORWOOD] last summer in the theater at Savannah, which is said to have "excited the admiration and sympathy of his audience." The Senator before that appreciative audience delivered himself of sentiments like these:

When driven by the frigidity of social ostracism from the North, he flies with marvelous instinct to the torrid and unctuous embrace of his African mates and peers among the swamps of our southern shore. As the crane fills his craw, so this creature fills his bag for the flight; and as the crane, when the days grow hot, flaps his wings, and, screaming through the air, returns to the North; so this ill-omened biped, when times become warm in the South—

But, sir, his colleague says times do not become warm in the South for these northern men, these republicans, these carpet-baggers—

when times become warm in the South, gathers up his legs and flying with screams and shrieks away, perches on the wooden head of the figure of justice, commonly known as the Attorney-General, and drowns the air with croakings about southern outrage.

\* \* \* \* \*

His shibboleth is "the republican party."

O no! there is no ostracism of republicans!

From that party he sprang as naturally as maggots from putrefaction. His relation to that party is that of pimp to a bawd, for his meretricious service is rewarded in proportion to the number of innocent negro victims he inveigles to gratify its lust for power. Like Wamba and Gerth, he never travels without wearing his master's collar; and he is equally content whether turned loose to chase like a sleuth-hound the monarch of southern soil, or called by a snap of the fingers to eat the garbage of his party. His collar is his passport to roam at large—

That is the collar of republicanism—

and it matters not with what persistence he may break into a southern gentleman's close, his master will not permit him to be muzzled, for he is "the ox that treadeth out the corn" as well as "the ass that knoweth his master's crib."

Mr. NORWOOD rose.

Mr. SARGENT. I will yield for a question, not for a speech.

Mr. NORWOOD. A request, not a question.

Mr. SARGENT. Well, sir, what is it?

Mr. NORWOOD. It is this: that the honorable Senator will not garble, but give the whole.

Mr. SARGENT. I have read two long extracts from this speech, and what I have selected is a fair expression of the spirit of the whole; and probably the man was in the audience who telegraphed to the colleague of the Senator that he was treated in the South better than he deserved, because what he deserved I presume he got from the teachings of the Senator from Georgia whom I address, from whom he learned that opprobrium, that witty, I confess, but stinging insult is poured upon the heads of northern men without discrimination. The Senator by reading it now all the way through will find no line drawn; he can find not one word drawing a distinction between the gentleman who telegraphed to his colleague and any gentleman who might have sat by his side in that audience or any other northern man residing at the South.

Mr. NORWOOD. What do you refer to?

Mr. SARGENT. The gentleman's colleague cited a telegram of a northern man, who he said was a republican, to prove that there was no social ostracism of republicans in Georgia, and this telegram said he was treated better than he deserved—a remark that I say a northern gentleman would not be likely to use. There is this bitterness, which is appreciated in such audiences as that assembled in Savannah, created by the speech of my friend from Georgia. There is this con-

tinual contempt poured out on northern men. They are compared to beasts of prey and birds of prey; they are men of foul lusts; they are men who come to eat up the South. I ask again, has not a northern man a right to go to any part of the South that he sees fit, there to locate, to carry on business, ay to run for office if he sees fit, to carry his political principles there, to enjoy them without being condemned and insulted on account of the exercise of that preference? That it is not the northern man merely, but the republican that is objected to, is evident from the case of Gilbert A. Walker, who went from Chicago down to Virginia after the war, and who was there elected governor of the State and has been subsequently sent by the democratic party to Congress; and the New York Herald says of him that he is the right kind of a carpet-bagger. The difference is that he is a democratic carpet-bagger. It is the republican that is objected to. The Constitution of the United States, article 4, section 2, says that—

The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

Is there not this right of intercommunication through travel and residence and the right of political opinion? In the old slavery days a northern man who went there and was not a democrat, and a pro-slavery one at that, was called an abolitionist, and he was ignored, ostracized by polite society, persecuted and stoned by the rabble. That has passed away with slavery, and the man who goes there now is a carpet-bagger who is subjected to these insults, these abuses, these injuries.

The Senator from Georgia [Mr. GORDON] talks of the "vials of hate poured out in this debate." It is untrue.

Mr. NORWOOD. I want to make one remark, with the Senator's permission.

Mr. SARGENT. Well.

Mr. NORWOOD. The remarks there apply to certain classes of men who are described in a previous part of the remarks I made. They do not apply and were not intended to apply to gentlemen like Mr. Morrill who is not a democratic carpet-bagger, but is a republican. That was the reason that I asked that the former portion of these remarks should be read, as they explain what follows.

Mr. SARGENT. I have no objection to this whole thing going into my speech; but I do not see fit to take up my time by reading it. I will accommodate the Senator, who seems to be somewhat pleased with his effort at the Savannah theater, and for which I compliment him, by reading the further part of it to which he refers as explanatory, and it may then be seen that in every line of the part he refers to, not merely in that which I have quoted, though I quoted a fair specimen, but that in every line of it there breathes a spirit of hatred and contempt of northern men and northern republicans. You may disguise it as you choose; you may say republicans have no business to run for office, or they come down there and try to organize the blacks in behalf of republican principles and therefore you despise them. I say they have a right to do those very things, and I going from California have as much right to go to Georgia and live there a year and run for office or to associate together men of my political opinions, or make speeches on the stump, or publish newspapers and not have them thrown into the river, and not be abused in my own person or my property destroyed or I insulted in private or before public audiences in the manner in which northern men without distinction, unless they are democrats, are insulted by that speech made by the Senator in Savannah. The Senator insists



that the introductory remarks made by him at Savannah will explain his meaning more fully than the extracts I have read. I will read the part of his speech entire that precedes the first extract I quoted from it. It is as follows :

The reconstruction acts have wrought immeasurable evils, but perhaps the greatest of all is the production of the carpet-bagger. I have great admiration for the genius who first used that word, carpet-bagger. What can be more expressive? His like the world has never seen, from the days of Cain, or of the forty thieves in the fabled time of Ali Baba. Like the wind he blows, and we hear the sound thereof, but no man knoweth whence he cometh or whither he goeth.

Natural historians will be in doubt how to class him. Ornithologists will claim him, because in many respects he is a bird of prey. He lives only on corruption and takes his flight as soon as the carcass is picked. In other particulars he resembles the migratory crane.

What such speeches mean, and how they operate, is in evidence from many sources. The Zion's Herald is the organ of the Methodist Church of New England, a non-partisan, moderate paper, and its relation of the experience of the "carpet-bag" ministers of its church is worthy of citation. It recently said :

While southern politicians, ministers, and laymen can express their sentiments, however obnoxious they are to the convictions of northern men, with the utmost freedom, in the pulpit, in the railroad car, in the hotel, on the corners of the street, with great demonstrations of earnestness and violent denunciations even of others holding different views, the most guarded utterances made by northern men at the South, that can be distorted into opposition to prevailing sentiments, are met with impertinent sneers or social ostracisms; and every form of personal and business opposition is put into requisition to drive away any one daring thus to utter, in a perfectly gentlemanly way, an honest conviction. The eminent southern ministers that visited the northern camp-meeting last summer were shown every possible attention, and allotted every honorable opportunity to address our largest audiences. They were frank in the expression of their own sentiments, courteous indeed, but still not guarding severely their speech in social intercourse. No one thought of criticising the freedom of those eloquent guests. Has one of them, however, in southern prints attempted to secure a like return of courtesy for our eminent northern ministers who may providentially visit the South, or suggested that the pastors of the Methodist Episcopal Church South should pay the respect to their northern brethren due to their office, their character, and the fraternal attentions they have vouchsafed to visitors from the South? Our most cultivated men, high in office, renowned for talent, accomplished scholars, men marked for their gentle address, enter cities and large towns where several southern ministers have churches, but not a man of them, although the fact is publicly known of their presence, offers a nod of recognition or proffers the slightest Christian courtesy. What is the significance of this? And this is not true simply of individual ministers who have been outspoken in their views upon southern sentiments, but of our most conservative, fraternal, and peace-seeking men. There are no conspicuous instances recorded where this unfraternal policy has been even temporarily interrupted. There have been no Round Lake camp-meetings in the Southern States.

The most singular fact is the apparent unconsciousness of the existence of this hateful, unmanly, and unchristian temper on the part of southern men, and the evident feeling of abuse which they manifest when northern persons infer and state that there is any lack of true courtesy or manly generosity among the better portion of the southern communities. There is no doubt that exaggerated and false statements have been made; and there is also no doubt that one-half of the personal and pecuniary injury to northern business men, the social and most offensive ostracism and positive violence and brutal abuse in portions of the South and Southwestern States has never been told.

The Senator's colleague [Mr. GORDON] talked about "vials of hate poured out" by us in this debate. It is entirely untrue, and calculated to mislead the people of his State. The speech was intended for circulation in Georgia rather than the ear of the Senate, as was evident by the large number of extracts which the Senator said he would not ask to be read but have put in his speech. If it was intended to influence the Senate, they should all have been read in the hearing of the Senate; but pages were put in without any other effect except to figure in the RECORD and go to his own people.

There have been no evidences of hate here. I myself yesterday, although speaking of grave matters and speaking with earnestness, spoke kindly in every instance, and I desire to do so. But he holds up to the Senate of the United States the republicans here in an unfavorable and untrue light when he talks about our pouring out the vials of hate on the Senator or any of his colleagues. We have pictured the injustice in the South and the barbarism there, and asked for justice, peace, and order. But I ask Senators to see how the hate of that audience at Savannah was stirred up indiscriminately against northern republicans going to the South. The Senator from Georgia [Mr. GORDON] assumes that because some one speaks of the kindness of the republican party during the past years and now in amnesty measures, a reproach is cast on the rebels. The debate has been free from such reproaches; but it is well not to open that subject.

The Senator justifies those who embarked in the rebellion on the ground that they thought they were right. I presume they so thought, but that does not prove that they were right or lessen the magnanimity of the Government in forgiving them. The high priests who procured the crucifixion of Christ and the people who asked the release of Barabbas probably thought they were right. Those who tolled the bell of Saint Bartholomew and those who answered its call; the authors of the Sicilian vespers; those who drenched Savoy with blood; Torquemada watching the victims of the Inquisition on the rack, probably all thought they were right. Scroggs and Jeffreys may have thought they were right at the bloody assizes. The authors of the massacre of Glencoe may have thought they were right. The assassin of William the Silent may as much have thought he was right as did Wilkes Booth when he assassinated President Lincoln. But the enlightened judgment of mankind condemns them; and it will not do for those who rebelled against the best Government on earth to extend slavery, who drew the death line at Andersonville, who starved Union soldiers at Belle Isle and Salisbury and assassinated a President of the United States, the noblest and most loving heart of the ages, to recall these deeds in other than a sorrowful spirit.

But I am digressing. I was speaking of the condition of Louisiana and of the events that in panoramic succession led up to the seizure of the House of Representatives by a faction on the 4th of January. A little over a year ago an unprovoked massacre of negroes took place in Grant Parish, where eighty to one hundred negroes were killed in cold blood by a man with McEnery's commission in his pocket. Go back still further. In 1866 a peaceable convention assembled at New Orleans for the purpose of proposing amendments to the constitution of the State, were prevented from doing business by force, and some two hundred men were killed and wounded in an hour. Within sixty days of the presidential election of 1865 some two thousand men were killed for their political opinions. Such scenes as these—and I give but samples—led up to the Penn insurrection; so that the seizure of the legislative hall was but an incident to be plead with a *continuando*. Under these circumstances, with these surroundings, the President did right to employ the military to discharge his high constitutional obligation, and the action of the military was legal and commendable.

Democratic Senators say that the root of all the troubles in Louisiana is the presence of the military and the proper impatience of the people against the Kellogg government. Let us see. It may arise from the mercurial and intolerant character of the white men there.

Such scenes long antedate the war or the presence of carpet-baggers. Intimidation and bloodshed at the polls in Louisiana are no new things. Charles Gayarré is entitled to eminence as a historian of Louisiana. On page 679 of his work he publishes the following facts under date of 1856:

In January the official relations of Governor Hebert with the State terminated. In his valedictory message he referred with deep mortification to the scenes of intimidation, violence, and bloodshed which had marked the late general elections in New Orleans—

There were no republicans there then, no carpet-baggers, none of these birds and beasts which the Senator from Georgia talked so spitefully about to the people of Savannah—

He said that the repetition of such outrages would tarnish our character and sink us to the level of the anarchical governments of Spanish America; that before the occurrence of those "great public crimes," the hideous deformity of which he could not describe, and which were committed with impunity in midday light, and in the presence of hundreds of persons, no one could have admitted even the possibility that a bloodthirsty mob could have contemplated to overawe any portion of the people of this State in the exercise of their most valuable rights, "but that what would then have been denied even as a possibility is now a historical fact."

Gayarré is talking about matters that occurred in 1856, not about scenes that occurred in 1872-'74—but how very close the parallel—and he quotes from a governor of the State and an executive message. Governor Wickliffe, succeeding Governor Hebert, after lamenting the mismanagement and recklessness of administration, in his message to the Legislature in 1857 he commented on this mob violence.

He said:

It is well known that at the two last general elections many of the streets and approaches to the polls were completely in the hands of organized ruffians—

How much that sounds like "banditti"—

who committed acts of violence on multitudes of our naturalized fellow-citizens who dared venture to exercise the right of suffrage. Thus nearly one-third of the registered voters of New Orleans have been deterred from exercising their highest and most sacred prerogative.

Are we not to be believed when we say that by similar scenes recently occurring one-third of the people of New Orleans and Louisiana are deprived of their rights and twenty thousand men kept away from the polls?

The expression of such elections is an open and palpable fraud on the people, and I recommend you to adopt such measures as shall effectually prevent the true will of the majority from being totally silenced.

And it is for the results of just such frauds, more recently enacted, that the democratic party are contending. They must have the fruits; what matters it if men were kept away from the polls by bloody crimes like those stigmatized by Governor Wickliffe, the work of "organized ruffians," they claim to be allowed to pack a Legislature by such means? Wickliffe is not more explicit than Major Merrill in his recent testimony before the congressional committee:

I have been stationed in Louisiana since October, part of the time in New Orleans; have been in Shreveport; the Red River country is in a deplorable condition, and without the presence of troops there is no telling what would happen; colored men are terrified and are constantly in fear of violence; white republicans are ostracized that I know of; there was no free expression of political views, and the control was in the hands of a few war leaders of the conservative or White League party; they would like to overthrow the State government; there is antagonism to equal rights; an impartial election could not have been held in that country; several massacres have had the effect to intimidate the colored men; weeks and weeks after the Coushatta massacre colored men did not dare to remain at their homes at night, and I think that no free or fair election could have been held in Louisiana; white republicans are severely ostracized; I have no personal knowledge of the Coushatta murders; when I visited Shreveport there was but



little semblance of law; there was a volunteer police, but I had no authority to act; it would not be safe for a stranger to travel through the Red River country and declare himself a republican; an office was vacant in that section, and two gentlemen who conversed with me about it stated they would not dare accept a commission; I think that the people generally consider that if a man is a republican he can have no integrity; it would make no difference how honest republican officials might be, they would not be respected in office or out; I am engaged in making a report of all the massacres and political murders in Louisiana since 1866; in numerous instances colored men were deterred from voting because of the fear engendered by massacres; I do not know of a single instance where a colored man voluntarily voted the democratic ticket; I do not believe a republican speaker would have been tolerated; in some instances he might have got half through, but under most circumstances he would have been drawn into a quarrel had he tried to avoid it.

It appears that in 1856 and previous years corruption existed at the polls at New Orleans as now, and the historian draws a melancholy picture of its effects. On page 684 he says:

This was the main cause which, by producing intense disgust, went much further than the fear of assassination to prevent honest citizens from resorting to the ballot-box. They knew all our elections to have been so hopelessly fraudulent that it was disgraceful to participate in them. They had retired from the political arena in sullen despair.

It is well to understand this. The lawless class-hate that assailed naturalized citizens at that time, assassinated them, kept them away from the polls, is now transferred to republicans, white and black. Force and fraud had such play that at the election where Kellogg and McEnery were candidates republicans practically could not vote, and any result declared in favor of McEnery would have been a gigantic fraud, a denial to the people of Louisiana of their rights. At the election in 1868 when Grant was a candidate the returns showed that in many parishes General Grant did not get even one vote, in other parishes he got two, in other parishes five, in others ten votes; but the important fact is that numerous murders, numbering as reported by a congressional committee over two thousand killed and wounded, had produced terror which between May and November made a change of seventy-three thousand votes.

I ask if history is not reproducing itself in Louisiana? The same assassination and terrorism existed at the last election, driving men to conceal in the woods, to keep away from the polls. Everybody knows that a fair election would have elected a Legislature overwhelmingly republican.

In the face of such facts and of the scenes at Vicksburgh and elsewhere the Senator from Georgia [Mr. GORDON] asks "was there ever such provocation as that of the South since the war?" How the blood-thirsty black chickens persecute the White League fox! Provocation! by general pardon, by restoration to rights, by admitting to Congress fraternally even those who fought to destroy the Union. Provocation! because we condemn murder, because we ask for mercy to the helpless, because we insist on the liberty to live, labor, and enjoy the rights of a citizen of every man within your borders!

But he says we interfere between capital and labor. It was a maxim of slavery that capital should own labor. If the South have accepted the results of the war as the Senator insists they have, they have accepted emancipation. That and its results we insist on and will do so.

Let us see what arrangements between capital and labor we have interfered with, and how kindly southern capital provides for labor. I have here the laws which were passed by the States of the South when they first reassumed political power with reference to the colored people, declaring that even an insolent gesture of a black man to-

ward a white should be punished by imprisonment, and the person could be sold from his prison to labor. I will not take up time to read these. They are to a certain extent familiar to the country. Congress intervened on account of the barbarism which was being exercised toward the blacks by capital, reducing them to a condition of slavery little better than that from which we had redeemed them. But in Arkansas recently, under their reconstructed constitution and Legislature, they are passing just such laws again. Capital, which it is said we interfere with, dominating in Arkansas, ay, and in North Carolina, too, is passing these very vagrant laws whereby men can be sold for not fulfilling a contract for labor, whereby they can be arrested on various pretenses when they are not engaged in regular employment, whereby traps are continually set for their feet, the penalty being all the time to transfer the possession of their persons to white men who will buy them for that purpose. Furthermore, they are passing laws that the stealing of two dollars shall be grand larceny, punishable as a felony, and are making all the county jails branch State prisons, because felony disfranchises the person who is guilty of it unless he is pardoned; and by these means they can succeed step by step until they have totally disfranchised the colored men in the South. The "second sober thought" of the South, now that they are getting the power into their own hands again, is in accordance with that which they had at first when they emerged from the rebellion.

Mr. RANSOM rose.

Mr. SARGENT. The Senator shall hear enough about North Carolina if he will allow me to proceed. I have not done with it.

The democratic Legislature recently assembled and now in session in North Carolina passed a new charter for the city of Wilmington, in which they divided the city into three wards, and gerrymandered it as follows: One ward, containing two hundred and fifty voters, elects two aldermen; one ward, containing three hundred voters, elects three aldermen; and the rest of the city, containing thirty-one hundred voters, elects three aldermen. By great ingenuity in running lines in the blocks the two wards containing two hundred and fifty and three hundred voters, respectively, elect six aldermen, while the thirty-one hundred voters only elect three. The democratic member from that district published a letter in the Republican recently defending this action on the ground that it gave a better representation to property. That is the very point. That is modern democracy. That is to say, the jackass now, using Franklin's illustration, is to be recognized as the voter and not the man; that is to say, the poor and the humble are not to have equal rights in representation on this floor and in the other House, in legislative bodies, or municipal councils, and other places. Representation is to be taken away from the poor, and by a system of aristocratic laws put into the hands of property men. O, democracy, where is thy blush! Where is the democrat who can stand up and not blush with very shame at the idea that these things are done in its name? Trample down the poor and humble, and deprive the freeman of his rights under American institutions!

A bill is pending in the North Carolina Legislature, reported favorably from a committee, which will undoubtedly pass, which makes it a misdemeanor for any agricultural laborer to violate his contract with his employer. This even applies to minors, and its effect and intention is to establish a system of peonage.

The question is now pending before the Legislature of calling a

constitutional convention, its object being to overthrow the present State constitution. This provision was submitted to the people by the democratic Legislature three years ago, and defeated by a large popular vote; but now, having a two-thirds majority in the Legislature, they think they can call a convention without submitting it to the people; and if they do not do so, it will only be because they are deterred by the admonitions of their friends here in Congress. A caucus was lately held by the democratic members of the Legislature at Raleigh in reference to this convention matter, and a very large majority were in favor of calling a convention. Communications were received from democratic members of Congress imploring them not to do so at this time, that they could wait and accomplish all they wish by and by. Therefore their not acting at this time is merely a question of policy.

Mr. RANSOM. Mr. President—

Mr. SARGENT. I will yield for a moment only.

Mr. RANSOM. Only one word. I desire to say in reference to the Senator's statement that he is entirely mistaken.

Mr. SARGENT. I hear the Senator's statement; but I have it on the very best authority. I have been extremely careful in my statement.

Mr. RANSOM. The Senator cannot have it on as good authority as the Senator who now speaks, because I know about it.

Mr. SARGENT. I have a very high respect for the Senator. Does he tell me that there has been no effort to call a convention for the purpose of changing the constitution of the State?

Mr. RANSOM. It has been mooted in North Carolina and is now mooted—

Mr. SARGENT. Does the Senator say it has not been opposed by democratic members here?

Mr. RANSOM. I say that there has been and is now a movement in North Carolina to call a convention of the people to alter the present constitution of the State, but there has been no imploring dispatch sent by the North Carolina democratic delegation to a caucus of the democratic party not to do that act. The delegation have informed their friends in North Carolina of the state of opinion here, but they have been particular to do nothing else. But let me say to the Senator that if that convention is called and a new constitution is adopted, the new constitution will conform in all respects to the Constitution of the United States, and sacredly and tenderly respect the thirteenth, fourteenth, and fifteenth amendments.

Mr. SARGENT. I trust the Senator is not mistaken in that. If, however, under the same influences and the same class of people, it should happen to turn out as the constitution of Arkansas, and be changed in the same way as it was in Arkansas, by fraud and violence, subverting the rights of the people instead of protecting them, I should not be at all surprised.

Mr. RANSOM. I protest against any such apprehensions being expressed by the Senator from California in reference to North Carolina.

Mr. SARGENT. Patrick Henry once said that he had no light for his feet except the lamp of experience. I have no opportunity to judge of southern affairs except by that which I see transpiring before my eyes every day. I see these things going on. I see constitutions overthrown, State governments subverted, sometimes by violence and force and fraud, as in Louisiana, sometimes by trick, by violation of the State constitution, and by force also, as in Arkansas.



These things are occurring in these very reconstructed States; and although I have a very high respect for the Senator, I need something stronger than his guarantee to believe that these things now occurring are not likely to be repeated, and in his own State.

Horace Greeley was the nominee for President of the democratic party at the last presidential election, and I should like to show the Senator from North Carolina how well he understood the people of his section. I suppose I am quoting from democratic authority; at any rate he was indorsed by the Senator's party. He said in 1871, not long before his nomination:

It (the democratic party) would come into power with the chagrin, the wrath, the mortification of ten bitter years to impel and guide its steps. It would devote itself to taking off or reducing tax after tax until the Treasury was deprived of the means of paying interest on the national debt, and would hail the tidings of national bankruptcy with unalloyed gladness and unconcealed exultation. Whatever chastisement may be deserved by our national sins, we must hope that this disgrace and humiliation will be spared us. The democratic party of to-day is simply the rebellion seeking to achieve its essential purposes within and through the Union. A victory which does not enable it to put its feet on the necks of the black race seems to the bulk of its adherents not worth having. Its heart is just where it was when it regarded slavery and Constitution as two names for one thing. *It hates the generals who led the Union armies to victory, and rarely misses a chance to disparage them—*

Ay, they are not fit to "breathe the air of Heaven" or "the free air of a republic," as has been said on this floor—

It clings to that exaggerated notion of State rights which makes them the shield of all manner of wrongs and abuses. It takes counsel of its hates even more than of its aspirations, *and will be satisfied with no triumphs that do not result in the expulsion of all active, earnest republicans from the South.*

That which your candidate for President believed in 1871, I have seen evidence day after day down to the time I now speak to believe.

The Senator from Georgia [Mr. GORDON] dwelt on the necessity to the South of a correct public opinion at the North, and appealed to public opinion to exonerate him and his section from censure for the things to which I have referred. Public opinion is a two-edged sword, and he has more to fear from it than those who denounce this system of slavery and the atrocities that lead up to it. There are other appeals coming from the South to public opinion. I have here one in the New Orleans Bulletin published on the 6th of February where they appeal as follows:

Patriots of the North, let the voice of Grant's victims in Louisiana warn you in time. Arm yourselves without delay; band yourselves together in military array; organize by States, and have your worthy and trusty leaders chosen. Let those who love liberty know each other, and get used to concerted action. Put aside funds, munitions, and stores enough for a prolonged campaign. Be ready when duty demands it to take the field in such numbers as to crush out tyranny before it becomes supreme. You can depend upon most of the old soldiers of the armies who fought for the Government and Union if you organize and prepare in due season. Your country, your threatened liberties, and the palpable encroachments, plain intentions of your enemies, call for active preparation. In the name of liberty we conjure you to heed this warning and be ready.

The public opinion of the North is appealed to for another rebellion, to engage with the South in overthrowing the constituted authorities of the Government; but, as I say, this public opinion is a two-edged sword, and the men who fought down the former rebellion can be relied upon, they and their sons, to put down another!

But these things are the natural outgrowth of democratic policy avowed in grave public documents. The Senator from Delaware, [Mr. BAYARD,] in a congressional report, amplified and enlarged upon the necessity of excluding colored men from political power. The report is made by Frank P. Blair, T. F. BAYARD, S. S. COX, JAMES B.

BECK, P. Van Trump, A. M. WADDELL, J. C. ROBINSON, and J. M. Hanks. I will not read at length on account of my desire to close. After going on to state that the phrase used long prior to the war that no government could exist half slavery and half free should be paraphrased, and it was a proposition equally true that no government could exist half black and half white, and saying that the minds of thinking men are coming to this conclusion, they say :

Such a state of things—

This half black and half white political equality, this voting power and right of the negro—

Such a state of things may last as long as the party shall last which had the power and audacity to inaugurate it, and no longer. But whenever that party shall go down—

Ay, sir, when the republican party shall fail—

whenever that party shall go down, as go down it will at some time not long in the future, that will be the end of the political power of the negro among white men on this continent. Men in the frenzy of political passions may shut their eyes to this fact now, but it will come at any time when the negro shall cease to be a party necessity in the politics of this country.

That is what the republican party accuse the democracy of. They say that is the very tendency of your measures; that you keep that end steadily in view to destroy the thirteenth, fourteenth, and fifteenth amendments of the Constitution; that you design to re-enslave the African; that you design that all the fruits of the war shall pass away; and I charge it here on the floor of the Senate that that is the design of the democratic party; that it is evinced by their reports on the condition of the South that they intend to overthrow all the fruits of the war; that the results of the long struggle which cost hundreds of thousands of lives and hundreds of millions of dollars shall go for naught; that the blacks shall again be enslaved; that this black blot shall be again upon the American escutcheon and an American citizen can no longer hold up a fair front to heaven and before the nations and say, "Within our broad boundaries there treads not the foot of a slave." That is democratic policy; and there are the signatures of those Senators and members of the House in a grave public document stating these views openly and fully.

Will not the country arouse to these tendencies? Is it possible that the country can sleep when these dangers impend? What difference does it make about the petty speeches of little stump orators in localities, when before the Congress of the United States in a document of that gravity so plainly is put forth the avowed design of the party to overthrow the rights which have been secured by the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States?

These operations at the South are all in pursuance of the plan outlined by this congressional committee. They design to take State by State. Where they cannot grab a whole State at once as in the case of Louisiana and Arkansas, they intend to take a section of it as at Vicksburgh in Mississippi, and to hold it by force and violence. They intend to subvert the State constitutions, to eliminate from them every vestige of right, of freedom of thought and action of colored men, or of anything except pure, unadulterated, old pro-slavery democracy. That is their deliberate purpose; and all these operations, all these plans tend to that very thing. I doubt not that that is well understood and is abetted by northern democratic leaders. If it were not so, why should we see such documents as this which I have read, where the result is pointed at but with a lack of hope—

fulness not customary to that party they do not think it can be accomplished until the republican party is entirely banished from power. They have started even before the republican party is entirely banished from power to work these nefarious ends, and they hope to complete them when they get supreme control.

I believe that these things are well understood and encouraged by the leaders of the northern democracy, and any further ulterior purposes that there may be on the part of the southern agitators in regard to the destruction of the Union of these States, because I find by the history of the rebellion and the circumstances which accompanied its opening that leading democratic politicians and statesmen were in close communion with the rebellious leaders at that time and encouraged them to retire from the Union. I might quote the letter of Franklin Pierce, a former democratic President of the United States, written on the 6th of January, 1860, nine months before the first State seceded. I might quote also from the language of Keitt in the South Carolina convention where he said they had a right from the assurances which were given by the northern democrats to expect assistance, and that they had been disappointed, and that the northern democrats had gone back upon their pledges through a cowardly fear for their own safety if they had dared themselves to stand up in the face of the Government and the people of the North. I have here an unpublished essay written by a gentleman of Louisiana in which, to do him justice, he belabors all parties right lustily. After making a remark which would have fitted very well into something that I said yesterday and which I will first quote, he goes on to speak of this matter. Speaking of the democratic party, he says:

Measured by its own arrogant boasts, it was the sole fitting expounder and only faithful defender of the Constitution in its primitive purity. There were some, however, who, even in palmy days, contended that by actual measurement it was but a juggling charlatan, "stickling for the letter of the Constitution with the affectation of a prude, and abandoning its principles with the effrontery of a prostitute." Whether the boast or the sneer contain the most truth, it is not now pertinent to inquire.

In 1860 the maxims of state-craft it had cherished through the long years of its jealous rule were repudiated by the popular voice, the reins of government it had grasped in lineal and almost unbroken succession, from Jefferson to Buchanan, were decisively wrested from it and placed in the hands of a party representing new ideas. Whatever its virtues, (and it must have been endowed with many, else how would it have retained its hold upon the popular heart so long,) patience under ostracism from the control of public affairs does not appear to have had a place in the catalogue. The southern leaders, maddened by defeat, proclaimed the right of secession, and flew to arms to vindicate it. It was generally believed at the time that large promises of material aid had been given by the northern portion of the democratic brotherhood. If ever given, those promises were redeemed very much after the fashion of Monsieur Parrolles, when he so valiantly undertook to recover the captured drum. After having gulled their impulsive southern allies into "the imminent deadly breach" they coolly stacked arms! The more respectable, keeping up a show of consistency by a fusillade of negative and diluted sympathy; recruiting the confederate armies with shadowy battalions of emotional substitutes in lieu of the active physical aid promised.

That is even better than Keitt's speech or Pierce's letter. These things are understood at the North by northern democratic leaders, and I think so from many circumstances. Marr headed the mob who demanded the abdication of the State government of Louisiana on the 14th of September. From that bloody field he went to the Manhattan Club, on December 29, at New York, and there made a speech. Why he should have gone there and then returned to take part in the subsequent proceedings, why he found there the sympathizing friends which his operations required, may perhaps be explained by some one, but I can only draw inferences. In this speech he said:



I am astonished that the thunders of public indignation were not heard, and that the President was not told "Thus far shalt thou go and no farther."

Observe this was in reference to the Penn insurrection to overthrow the State government, not what took place afterward in the Legislature.

Yet the telegrams from Washington announce that it is the determination of the President to deal with Louisiana with a rough hand; for friends have said be patient; wait a little longer. Well, we have been patient; we have waited, and we have been injured beyond comprehension, except from actual experience. We mean to preserve the public peace as far as it is possible for us to do so. I mean no menace, no threat, when I say it is the fixed determination of the people of Louisiana to sweep these men from power.

And by what means they are going to do it we know by his participation in the massacre of the 14th of September. Not sweep them from power, according to the American sense of the term, by a peaceable election, by allowing the will of the people to be expressed through the ballot-box. O no, sir; but by mobs, by muskets, and bullets.

And they will do it, unless they are prevented by the direct interposition of the Federal soldiers. [Applause.]

Yes, sir, they meant by violence to subvert the State government. This was on December 29, only a very few days before the event happened in the Legislature on the 4th of January, showing their purpose to overthrow the State government by violence unless the Federal troops interfered to prevent. And then shall it be said that there was no necessity for the use of the Federal troops; that the constitutional guarantee could not properly be called into exercise when this vaunt was made by this man Marr who headed the just previous insurrection and bore his complaints and made his promises to the bosom of his friends of the Manhattan Club?

I say these are but parts of a concerted plan to conquer State after State. Look at Arkansas. In defiance of the provision of the State constitution the government of that State has been overthrown by an illegal convention, officers elected for four years ousted, and the rights of the people prostrated. The Legislature was emptied of republican members by the illegal action of the governor, and his own emissaries put in as preliminary to this work. Thousands of men were disfranchised to elect a new Legislature, and that Legislature is passing bills as atrocious as those to which I have referred. Terrorism there suppresses the least murmur of discontent. Baxter found a contest to his right to act as governor before the Legislature. He emptied of his own motion the Legislature of republican members, thirty-three in the house and several senators, by pretended appointments to office; and when these appointments were made he declared the seats vacant and ordered a new election. Not remitting the question to the respective houses to ascertain if there were vacancies, as was required by the laws of the State, he himself decided that there were vacancies, in violation of law, and ordered an election. He thereby divested the Legislature of the constitutional right to pass upon the qualifications of its own members. He turned out the registrars appointed in 1872 for two years by and with the advice and consent of the senate, and put in his own creatures. These registrars conducted the election for vacancies, and he called an extra session, held elsewhere than in the State-house, surrounded the building with troops, and admitted no one except on a military order. There was no quorum present, and yet this illegal assembly admitted the governor's creatures in order to make up a quorum, and then they proceeded to pass a law calling a convention of the people,

although there was no provision in the State constitution of Arkansas by which such convention could be held. The constitution provided the means of its own amendment by the passage of those amendments through the two houses of the Legislature and submitting them to the people. All these more than forms, the very essence of the right of the people, the right to have their organic law amended only in a constitutional manner, were stricken down by this illegal body by the connivance of the governor of that State.

Mr. President, the time has arrived, I suppose—

#### FUNERAL OF HON. SAMUEL HOOPER.

The PRESIDENT *pro tempore*. In accordance with the order heretofore made the Senate will now proceed to the Hall of the House of Representatives to attend the funeral of Mr. HOOPER. At the close of the ceremonies Senators will return to their Chamber.

Mr. SARGENT. When the Senate took its recess yesterday I was discussing the condition of affairs in Arkansas, and showing that an illegal Legislature, illegally supplanting a legal Legislature, and supplanting it in order to prevent a legal inquiry into the right of the governor of that State to hold his place, had called a convention for the purpose of overthrowing the constitution of the State. I say of overthrowing the constitution rather than of amending it, because there was no power in the constitution of the State existing authorizing a new constitution to be made in the manner proposed. The constitution of the State of Arkansas expressly provided the method by which it might be amended, and if there is no security or guarantee for organic law in the organic law itself, then we are governed by mere mob power; then there is no security for the stability of our institutions, and a whim of the populace or a breath of public opinion may at any time sweep away the most valuable barriers erected for public safety. Article 13 of the constitution which was supplanted provides that amendments to the constitution shall be proposed by the respective houses of the Legislature and subsequently those amendments submitted to the people, but there is no provision in the constitution for the calling of a constitutional convention for the purpose of an entire change of the instrument. Before that can be constitutionally done, by all the precedents which have ever been passed upon by courts, the constitution must be amended in this manner to confer this power upon the Legislature and upon such constitutional convention. The question is by no means new. It has been passed upon directly by many courts where the question has been raised. The supreme court of Illinois in the case of *Field vs. The People*, 2 Scammon, 79, passed upon a kindred question. I will refer only to the syllabus of the case, because I find on reference to the opinion that it is a fair rendering of the judgment of the court in the matter, and they exhaustively considered the subject. They say:

It is a general rule, that when a constitution gives a general power or enjoins a duty, it also gives, by implication, every particular power necessary for the exercise of the one or the performance of the other. But this rule is modified by this very rule, that where the means for the exercise of a granted power are also given, no other or different means or powers can be implied either on account of convenience or of being more effectual.

The constitution of Arkansas provided means by which it might be amended, and it was unconstitutional, a violation of the organic law, to take any other or different means upon any pretense that it would be more convenient or more effectual. The supreme court of

Delaware, in 4 Harrington, advert to the question of the right of the people by a constitutional convention thus irregularly called to change the constitution of a State. In Delaware formerly there was no such power of amendment of the State constitution, and the court uses an apt illustration, familiar to them, in their reasoning in this case. In this case of *Rice vs. Foster*, 4 Harrington, 488, the supreme court say:

The legislative, executive, and judicial powers compose the sovereign power of a State. The people of the State of Delaware have vested the legislative power in a General Assembly, consisting of a senate and house of representatives; the supreme executive powers of the State in a governor; and the judicial power in the several courts mentioned in the sixth article. The sovereign power, therefore, of this State resides with the legislative, executive, and judicial departments. Having thus transferred the sovereign power, the people cannot resume or exercise any portion of it. To do so would be an infraction of the constitution and a dissolution of the government. Nor can they interfere with the exercise of any part of the sovereign power except by petition, remonstrance, or address. They have the power to change or alter the constitution; but this can be done only in the mode prescribed by the instrument itself.

The Senator from Ohio, [Mr. THURMAN,] when the President's message came in objecting to these illegal proceedings by which the government of Arkansas was subverted, was astounded by such declaration on the part of the President; and yet by the authorities, well considered, of various States of the Union where this question has been determined, it has been uniformly held that this would be an illegal subversion of the constitution of a State. I ask what is astounding in the President of the United States calling attention to this fact and asking that Congress take measures to remedy the mischief?

The supreme court of Delaware say:

The attempt to do so in any other mode is revolutionary. And although the people have the power, in conformity with its provisions, to alter the constitution, under no circumstances can they, so long as the Constitution of the United States remains the paramount law of the land, establish a democracy, or any other than a republican form of government. It is equally clear that neither legislative, executive, nor judicial departments separately, nor all combined, can devolve on the people the exercise of any part of the sovereign power with which each is invested. The assumption of a power to do so would be usurpation. The department arrogating it would elevate itself above the constitution; overturn the foundation on which its own authority rests; demolish the whole frame and texture of our republican form of government, and prostrate everything to the worst species of tyranny and despotism, the ever-varying will of an irresponsible multitude. The powers of government are trusts of the highest importance, on the faithful and proper exercise of which depend the welfare and happiness of society. These trusts must be exercised in strict conformity with the spirit and intention of the constitution by those with whom they are deposited.

Mr. BAYARD. As the Senator has referred to the decisions of the courts of my State, with which I am entirely familiar, I would beg leave to say to him that the members of the court that made the decision he has just cited held their offices under a constitution which was adopted in direct derogation of the requirements of the constitution that preceded it. The constitution of 1792 provided that certain articles should never be changed, and when the constitution of 1829 under which the court that gave this decision was appointed was adopted, it was in violation of the terms of the constitution that had preceded it. The case which he has cited has nothing to do with the question he is now discussing. It was a question there of the power of the Legislature to delegate their power to the people, so that they should give a law vitality by popular vote and let it depend on the popular vote for its force as a law. The court decided that that could not be. There was no question before them in the case of *Rice*



*vs. Foster* as to the power of the State to change its constitution in a mode not pointed out by the constitution itself, and it was not before them, not considered, not decided. What has been read was an *obiter dictum* in the very strongest sense of the term, but the court that uttered it held their places under a constitution that had been adopted in violation of the provisions of the preceding constitution.

Mr. SARGENT. I do not desire to discuss the good or bad faith of the courts of Delaware; I do not wish to say whether by this decision they passed condemnation upon themselves or not; but I do say that they most distinctly lay down in aid of the main proposition in the case that there is no power to amend a constitution except through the method which the constitution itself points out. I know that there is another method not recognized by courts, that there is what may be called violent revolution and there is peaceful revolution. But I am talking about law, not revolutions, which are outside of and subversive of law. These were peaceful revolutions in the case of New York and Illinois, where, the constitution being changed otherwise than as provided by the instrument, the question was never raised in the courts or brought to the attention of Congress. There was general acquiescence and satisfaction of the people in the results; and such cases are merely instances, they are not precedents showing what the law is.

The supreme court of Massachusetts, on a question submitted by the house of representatives of that State, also sustained strongly the principle of the reasoning of this supreme court of Delaware. The questions submitted in that case were, whether the Legislature could submit to the people the proposition whether there should be a State convention for the reformation of the constitution, when there was no provision in the existing constitution authorizing such a body. And the supreme court of Massachusetts, advising, says in 6 Cushing, 575:

Under and pursuant to the existing constitution, there is no authority given by any reasonable construction or necessary implication by which any specific and particular amendment or amendments of the constitution can be made in any other manner than that prescribed in the ninth article of the amendments adopted in 1820. Considering that previous to 1820 no mode was provided by the constitution for its own amendment, that no other power for that purpose than in the mode alluded to is anywhere given in the constitution by implication or otherwise, and that the mode thereby provided appears manifestly to have been carefully considered, and the power of altering the constitution thereby conferred to have been cautiously restrained and guarded, we think a strong implication arises against the existence of any other power, under the constitution, for the same purposes.

I think that this is the current of decisions all the way through, and in no case can you find that a court stultified itself by saying that that is law which is in violation of law; that that is constitutional which is subversive of the constitution. The only thing that can be insisted on is that a constitution shall stand where there is a peaceable revolution in which the people acquiesce, the question not being raised; but such assumption fails where a forcible revolution like that which occurred in Arkansas happens, and the protests of the people bring it to the attention of Congress.

Mr. BAYARD. May I ask the Senator whether his position is that if a State constitution shall forbid the alteration of certain of its articles in any mode whatever, they are not to be changed at any time by any action of the people?

Mr. SARGENT. That would be anti-republican and might justify a peaceful revolution if the people should be satisfied so to change their organic law. Or it might justify a forcible revolution if the oppression was great. But in either case it would be the will of the

people. But the will of the people was overawed in the case of Arkansas, as all the facts show, and there were no oppressive provisions in the constitution of that State.

Mr. BAYARD. The Senator thinks that an immutable condition in a constitution would be anti-republican?

Mr. SARGENT. I believe that the old constitution in Rhode Island discussed in *Luther vs. Borden*, with its disfranchising, unchangeable clauses, was anti-republican. I think an immutable constitution is anti-republican, because their institutions should not be beyond the legitimate control of the people. I have no question about that; but that was not the constitution of the State of Arkansas. In that constitution there was a specific and plain method by which the constitution could be amended, and ample means afforded to the people, and means which a few years before they had exercised to amend the instrument.

Mr. BAYARD. The Senator thinks an immutable provision in a State constitution is anti-republican. Does he consider that the United States, under its guarantee to each State of a republican form of government, may interfere at any time to change that constitution in those features?

Mr. SARGENT. The Senator might ask a great many questions. I am not here to discuss abstract propositions. When that proposition comes before the Senate I will discuss it. The Constitution of the United States simply guarantees a republican form of government, and if there is a republican form of government established by the people, established honestly and fairly, expressing the will of the people, it is within the guarantee of the Constitution. But the Senator will observe he is diverting me from the case of Arkansas whose every step was gained by force and aided by fraud. For instance, the very Legislature which passed through in one day the bill for the calling of a constitutional convention was surrounded by Baxter's troops, and no member of the Legislature or other person was allowed to pass through the lines without a regular pass from Baxter, and consequently there was no quorum present, for that and for other reasons, on account of the disturbed condition of affairs there. He gave passes to men who had been elected by an illegal election, where the people could not be registered, where the registry law itself had been tampered with; and this illegal body gave the first foundation for this whole proceeding. Do you call that acting on the will of the people? Is that the manner in which a republican form of government can be established or amended? To assert it is simply to assert an absurdity. The authorities are ample upon the question of the absence of right to alter a constitution without reference to a fair discretion of the people in accordance with the terms of the instrument which gives the power to amend. For instance, in 35 Pennsylvania Reports, 265, *The Commonwealth ex rel. Baxter*, the court say:

It is a natural principle of humanity that the will of a man is regulated by his habits, and that of a people by their settled customs and institutions; and without this neither can have any character by which their actions can be judged. Law means the settled customs and institutions of a people, and if these do not exist there is no law, and courts, if there be any, must be mere arbitrary powers. Law will have lost one of its essential elements when the mere will of the people shall prevail over the settled principles of their social life. Even a people, therefore, must conform to their own institutions if they are to have any government.

Here was an existing constitution of the State of Arkansas which had been in operation for years, which provided adequate means and a mode for its amendment, and as the supreme court of Pennsylvania

says, if the people of Arkansas have any security for law it must be in accordance with law and the constitution should have been followed in order that the subsequent convention which assembled could be legal, or that any amendment of the constitution could be recognized by the United States or the people of that State as the constitution of the State.

But more than this, the constitution of the State provided that the ballot should be secret. The object of the secrecy of the ballot, especially in communities like this, or in any community, is obvious enough. It is that a man may not be deterred by intimidation or by social influence from casting his vote as he pleases, and this right was secured by the constitution of the State of Arkansas, which has been overthrown. By an ordinance of the new constitutional convention, providing the method by which this constitution should be submitted to the people, it was declared in section 14—

That the names of the electors shall be numbered, and the corresponding numbers shall be placed upon the ballots by the judges when deposited.

Thus creating a system of espionage over the voters of the State ; thus giving the strong and influential classes, the property classes, the control of the poor classes, with ample means to know how they voted, to execute vengeance upon them if they did not vote as they desired. They struck down the secrecy of the ballot, and in defiance of the constitution itself.

I will not cite authorities to the point that an ordinance accompanying a new constitution cannot have the force of law to repeal provisions of the old constitution before it is replaced by the new. To insist upon that, I say, would be to insist upon an obvious legal absurdity—that a constitutional convention meeting to propose a new constitution can by an ordinance set aside the provisions of the old constitution before that constitution is replaced by the new or adopted by the people ; and yet that is just the thing they did here in Arkansas and in the most vital point, by striking down the purity of the ballot-box by destroying its secrecy. In 13 New York Reports, page 27, in the case of the *People vs. Pease*, there is a discussion of the question as to the right of a citizen to the secret ballot under a law merely providing for the secrecy of the ballot, and the judge says :

I have already alluded to the policy of the law providing for a secret ballot. The right to vote in this manner has usually been considered an important and valuable safeguard of the independence of the humble citizen against the influence which wealth and station might be supposed to exercise. This object would be accomplished but very imperfectly, if the privacy supposed to be secured was limited to the moment of depositing the ballot. The spirit of the system requires that the elector should be secured then, and at all times thereafter, against reproach or animadversion or any other prejudice on account of having voted according to his own unbiased judgment ; and that security is made to consist in shutting up within the privacy of his own mind all knowledge of the manner in which he has bestowed his suffrage.

That was the intention of the constitution of Arkansas, that the voter should be allowed thus to lock up in his own mind the knowledge of the manner in which he cast his vote ; but all this was stricken down by the illegal proceedings which I have mentioned. This subject was discussed in 38 Black, Indiana Reports, 90-96, and the pertinency of the decision is so great, and it illustrates so fully the illegality of these Arkansas proceedings, as well as the wrongs that the actors inflicted on the voters of that State, that I take time to read the facts stated in the opinion, as well as the conclusions of the able judge who made it :

The complaint alleges in substance that on the 11th day of October, 1870, at



general election held pursuant to law for the election of divers officers, the defendant was the duly appointed inspector of elections for a legal precinct of Fairfield Township, in Tippecanoe County, known as precinct No. 2, and officiated as such; that on said day the plaintiff was a resident of said township and a duly qualified voter, &c.; that he gave his ballot, which was in all respects a legal ballot, to said defendant as such inspector, and demanded that it should be put into the ballot-box without any distinguishing mark or number being placed upon it; but that defendant, as such inspector, against the protest of plaintiff, unlawfully numbered the same, &c., whereby plaintiff became damaged in his constitutional privileges and franchises, &c.

The defendant has demurred to the complaint for want of sufficient facts to constitute a cause of action against him. The question raised by this demurrer involves the constitutionality of section 2 of an act of the Legislature approved May 13, 1869, which section reads in these words, namely:

"It shall be the duty of the inspector of any election held in this State, on receiving the ballot of any voter, to have the same numbered with figures on the outside or back thereof to correspond with the number placed opposite the name of such voter on the poll-lists kept by the clerks of said election."

It will be seen that the acts of the defendant of which plaintiff complains are not only authorized, but enjoined, by the section quoted, and if the same is valid there is an end of plaintiff's case. It is claimed, however, that this law is void because in conflict with section 13 of article 2 of the constitution of Indiana. Section 13 reads thus:

"All elections by the people shall be by ballot, and all elections by the General Assembly, or either branch thereof, shall be *viva voce*."

I am not unmindful of the rule that all doubts are to be solved in favor of the constitutionality of legislative enactments. This rule is well established and is founded in the highest wisdom. But my convictions are clear that our constitution was intended to, and does, secure the absolute secrecy of a ballot, and that the act in question, which directs the numbering of tickets to correspond with the numbers opposite the names of the electors on the poll-lists, is in palpable conflict not only with the spirit but with the substance of the constitutional provision.

This act was intended to and does clearly identify every man's ticket, and renders it easy to ascertain exactly how any particular person voted. That secrecy which is esteemed by all authority to be essential to the free exercise of suffrage is as much violated by this law as if it had declared that the election should be *viva voce*.

I might go on from point to point, showing other monstrous illegalities. These conspirators stopped at no fraud or oppression. They subverted all the institutions of the State, made popular government a farce, corrupted the elections by illegally selected tools to do their will, and drove half the people of the State in despair from the polls.

The Senator from Ohio [Mr. THURMAN] is astounded that the President should call attention to these things. How enormous it is that he should be forever, and that republicans should be forever, complaining of things at the South! Why not let the old confederates trample down the rights of the people of the State, trample down their organic law, substitute for it another instrument without observing any of the forms that the constitution required, surround the Legislature or a mock Legislature with force, keep real legislators out, and then pass through under such forms a bill for a constitutional convention! Why should the President interfere in things of this kind? Why should he call the attention of Congress to them? We are astounded, say democratic Senators, at the presumption which can do it.

The republican party in Arkansas met in convention while these things were in progress before the vote came upon the new constitution and resolved, and published their address wherein they said all these things are illegal, these things are the fruit of force and fraud; we will not recognize these things as legal by our votes or our presence at the polls; and they staid away from the polls and thereby protested in the strongest manner. They are certainly nearly one-half of the people of the State, unquestionably a majority of the people of the State, judging by former elections. Thereby this great

body of the people of the State protested in the strongest manner against the adoption of this constitution. It is claimed that it was adopted by a majority of the voters, notwithstanding nearly one-half of the voters of the State staid away from the election; while by the peculiar manipulations which the officers of the election who were creatures of Governor Baxter were able to carry on the vote of the State apparently was larger than at any former election or any subsequent election in that State, in itself evidence of the grossest frauds which were resorted to in order to give a color to these proceedings.

In the case which I cited before of the *Commonwealth vs. Baxter*, the supreme court of Pennsylvania, on page 264 of the thirty-fifth volume Pennsylvania Reports, say:

Majorities go for nothing at an irregular election; we cannot regard them even as majorities, for it is the right of orderly citizens to stay away from such elections.

They cannot be regarded as majorities; and instead of piling up 105,000 votes, by the thousands more than ever were before or since cast in that State, in order to make the color of a majority, if they had piled up a million votes in the State it would not have been a majority, no matter what vote might have been cast. Such majorities go for nothing, because the election was illegal and irregular; because it was not held by the officers who were appointed by law; because the registry laws of the State were repealed; because the method of casting the ballots was tampered with in violation of the constitution, by which private marks were put upon them to be recognized thereafter, and voters questioned as to the method of their voting; because the object of the election was illegal, there being no power in the convention that assembled to prescribe that object—that is to say, the adoption or ratification of this pretended constitution—and the republicans were perfectly right in staying away.

I know and have admitted that in some cases in the States a change of the constitution brought about through the means of a constitutional convention not contemplated by their existing constitution has been assented to by the people, and they have been treated as peaceable revolutions. No question with regard to them has been raised in the courts; the courts themselves have been organized under the new constitutions; and Legislatures have met, and the people have been satisfied, and all has passed on quietly. There has never before been any instance, however, where one-half or more of the people of a State were complaining of the frauds and violences by which these things were brought about. In this very case in Arkansas, as part of the nefarious means which they used to stifle the voice of the people and prevent their asserting their rights, the conspirators abolished some of the courts, forbid others to take cognizance of questions arising out of the action of the convention, and enacted that no session of the supreme court should be held until after the election upon the constitution—until the whole thing had been put in motion and the time was passed when the people could have any legal assistance in arresting the despotic measures to which they were to be subjected. This suspension of the courts is in itself a badge of fraud. Why suspend the courts? Why take such action that the people cannot appear before the lawful tribunals and have the question tested? O, yes, Senators are astounded that the President of the United States calls attention to these enormities! Why, I ask again, should he not? He would be derelict to plain duty did he not. This was a revolution wrought in blood, amid

tumult, amid armed forces surround- ing the Legislature, dominating the wills of the people there. In t<sup>h</sup> e report which was made by Mr. WARD, and his report is well sust- ained by the testimony in the case, it is well substantiated by this v- olume of papers which I hold in my hand. [Exhibiting a package.] Here is a statement of murders by the hundred in different count- ies in the State of Arkansas, showing in detail the murders and m- urderous assaults that have occurred there for political purposes, r- of republicans, white and black, northern born and southern. The st- owing is terrible. Arkansas has a popu- lation of 122,160 blacks and 316,152 whites. The abstract of these papers shows that from t<sup>h</sup> e time of the reconstructed State govern- ment until the Garland usurpation was accomplished there were 789 murders and 380 assaul- ts with intent to kill; 1,052 were committed by democrats and 117 by republicans; those who committed the murders were 1,078 white and only 82 black; the victims were 865 republicans and 304 democrats, nearly three to one, and many of the latter were killed in repelling their assaults. I will let the table be incorporated in m<sup>y</sup> remarks.



[The following is the table referred to by Mr. SARGENT:]

| Counties.           | Murders. | Assaults with in-<br>intent. | By whom committed. |            |        |        | On whom com-<br>mitted. |            |        |        | Total by counties |
|---------------------|----------|------------------------------|--------------------|------------|--------|--------|-------------------------|------------|--------|--------|-------------------|
|                     |          |                              | Republicans.       | Democrats. | White. | Black. | Republicans.            | Democrats. | White. | Black. |                   |
|                     |          |                              |                    |            |        |        |                         |            |        |        |                   |
| Arkansas .....      | 10       | 6                            | 0                  | 16         | 16     | 0      | 14                      | 2          | 4      | 12     | 16                |
| Ashley .....        | 8        | 4                            | 0                  | 12         | 12     | 0      | 11                      | 1          | 4      | 8      | 12                |
| Benton .....        | 17       | 3                            | 1                  | 19         | 20     | 0      | 17                      | 3          | 6      | 14     | 20                |
| Boone .....         | 12       | 3                            | 2                  | 13         | 8      | 2      | 13                      | 2          | 6      | 9      | 15                |
| Carroll .....       | 7        | 1                            | 8                  | 9          | 0      | 8      | 1                       | 9          | 0      | 9      | 9                 |
| Clayton .....       | 3        | 3                            | 0                  | 6          | 6      | 0      | 3                       | 3          | 4      | 2      | 6                 |
| Crawford .....      | 9        | 1                            | 2                  | 8          | 7      | 3      | 8                       | 2          | 9      | 1      | 10                |
| Calhoun .....       | 10       | 6                            | 4                  | 12         | 13     | 3      | 14                      | 2          | 12     | 4      | 16                |
| Columbia .....      | 18       | 4                            | 3                  | 17         | 18     | 2      | 18                      | 2          | 18     | 2      | 20                |
| Chicot .....        | 14       | 10                           | 6                  | 18         | 19     | 5      | 20                      | 4          | 20     | 4      | 24                |
| Clark .....         | 29       | 3                            | 12                 | 20         | 25     | 7      | 25                      | 7          | 25     | 7      | 32                |
| Crittenden .....    | 2        | 2                            | 1                  | 3          | 4      | 0      | 3                       | 1          | 1      | 3      | 4                 |
| Cross .....         | 3        | 1                            | 0                  | 4          | 4      | 0      | 1                       | 3          | 4      | 0      | 4                 |
| Conway .....        | 21       | 2                            | 5                  | 18         | 23     | 0      | 16                      | 7          | 14     | 9      | 23                |
| Drew .....          | 13       | 6                            | 1                  | 18         | 18     | 1      | 18                      | 1          | 2      | 17     | 19                |
| Desha .....         | 3        | 1                            | 0                  | 4          | 4      | 0      | 4                       | 0          | 0      | 4      | 4                 |
| Fulton .....        | 4        | 2                            | 1                  | 5          | 4      | 1      | 5                       | 1          | 5      | 1      | 6                 |
| Faulkner .....      | 8        | 3                            | 3                  | 8          | 8      | 3      | 11                      | 0          | 9      | 2      | 11                |
| Franklin .....      | 23       | 4                            | 1                  | 26         | 26     | 1      | 25                      | 2          | 20     | 7      | 27                |
| Greene .....        | 20       | 2                            | 1                  | 21         | 21     | 1      | 14                      | 8          | 13     | 9      | 22                |
| Garland .....       | 14       | 8                            | 0                  | 22         | 22     | 0      | 16                      | 6          | 13     | 9      | 22                |
| Hempstead .....     | 68       | 11                           | 2                  | 77         | 77     | 2      | 60                      | 19         | 21     | 58     | 79                |
| Independence .....  | 18       | 9                            | 6                  | 21         | 22     | 5      | 17                      | 10         | 20     | 7      | 27                |
| Jackson .....       | 3        | 1                            | 0                  | 4          | 4      | 0      | 4                       | 0          | 4      | 0      | 4                 |
| Johnson .....       | 32       | 8                            | 7                  | 33         | 36     | 4      | 35                      | 5          | 35     | 5      | 40                |
| Jefferson .....     | 10       | 7                            | 2                  | 15         | 16     | 1      | 11                      | 6          | 13     | 4      | 17                |
| Lawrence .....      | 4        | 1                            | 0                  | 5          | 5      | 0      | 4                       | 1          | 5      | 0      | 5                 |
| Lafayette .....     | 23       | 13                           | 7                  | 29         | 29     | 7      | 25                      | 11         | 12     | 24     | 36                |
| Lanoke .....        | 5        | 2                            | 2                  | 5          | 5      | 2      | 4                       | 3          | 3      | 4      | 7                 |
| Little River .....  | 17       | 7                            | 2                  | 22         | 23     | 1      | 20                      | 4          | 5      | 19     | 24                |
| Lincoln .....       | 6        | 2                            | 0                  | 8          | 8      | 0      | 6                       | 2          | 2      | 6      | 8                 |
| Marion .....        | 4        | 2                            | 1                  | 5          | 6      | 0      | 3                       | 3          | 6      | 0      | 6                 |
| Mississippi .....   | 6        | 4                            | 2                  | 8          | 9      | 1      | 7                       | 3          | 4      | 6      | 10                |
| Montgomery .....    | 2        | 1                            | 0                  | 3          | 3      | 0      | 2                       | 1          | 3      | 0      | 3                 |
| Monroe .....        | 5        | 2                            | 0                  | 7          | 7      | 0      | 7                       | 0          | 1      | 6      | 7                 |
| Nevada .....        | 6        | 4                            | 0                  | 10         | 10     | 0      | 6                       | 4          | 4      | 6      | 10                |
| Ouachita .....      | 11       | 18                           | 3                  | 26         | 26     | 3      | 18                      | 11         | 11     | 18     | 29                |
| Polk .....          | 3        | 6                            | 1                  | 8          | 8      | 0      | 4                       | 5          | 9      | 0      | 9                 |
| Phillips .....      | 44       | 3                            | 8                  | 39         | 39     | 8      | 28                      | 19         | 21     | 26     | 47                |
| Prairie .....       | 9        | 4                            | 2                  | 11         | 11     | 2      | 10                      | 3          | 7      | 6      | 13                |
| Pulaski .....       | 30       | 13                           | 3                  | 40         | 41     | 2      | 30                      | 13         | 18     | 25     | 43                |
| Pope .....          | 45       | 15                           | 4                  | 57         | 60     | 1      | 53                      | 8          | 33     | 28     | 61                |
| Pike .....          | 3        | 2                            | 0                  | 5          | 5      | 0      | 5                       | 0          | 5      | 0      | 5                 |
| Perry .....         | 6        | 8                            | 2                  | 12         | 14     | 0      | 8                       | 6          | 7      | 7      | 14                |
| Sharp .....         | 5        | 1                            | 4                  | 2          | 6      | 0      | 2                       | 4          | 6      | 0      | 6                 |
| Saint Francis ..... | 4        | 2                            | 0                  | 6          | 6      | 0      | 2                       | 4          | 5      | 1      | 6                 |
| Saline .....        | 8        | 2                            | 0                  | 10         | 10     | 0      | 1                       | 9          | 9      | 1      | 10                |
| Sebastian .....     | 37       | 63                           | 7                  | 93         | 97     | 3      | 84                      | 16         | 29     | 71     | 100               |
| Sevier .....        | 34       | 20                           | 0                  | 54         | 49     | 5      | 35                      | 19         | 19     | 35     | 54                |
| Union .....         | 16       | 11                           | 1                  | 26         | 26     | 1      | 24                      | 3          | 4      | 23     | 27                |
| Van Buren .....     | 8        | 4                            | 2                  | 10         | 12     | 0      | 10                      | 2          | 2      | 10     | 12                |
| Washington .....    | 17       | 8                            | 2                  | 23         | 24     | 1      | 22                      | 3          | 9      | 16     | 25                |
| Woodruff .....      | 16       | 3                            | 0                  | 19         | 19     | 0      | 6                       | 13         | 10     | 9      | 19                |
| White .....         | 30       | 43                           | 1                  | 72         | 72     | 1      | 53                      | 20         | 35     | 38     | 73                |
| Yell .....          | 6        | 3                            | 3                  | 6          | 6      | 3      | 3                       | 6          | 3      | 6      | 9                 |
| Total .....         | 789      | 380                          | 117                | 1,052      | 1,078  | 82     | 873                     | 294        | 578    | 589    | 1,167             |

The report of Mr. WARD sustains these documents and is sustained by them and by all the testimony taken by his committee; and he sums it up in strong and nervous language :

I think it sufficiently appears that, down to the close of the convention, the whole proceedings were void, because of the violations of all law; the frauds, violence, and intimidations practiced by Baxter and his coconspirators, and that the election to revise the constitution was held in violation of the existing constitution; that the convention, if properly called, exceeded its powers, and the election to ratify its work was void; and it cannot be successfully contended that the people of Arkansas have in any legal way under any forms of law expressed their wish to overthrow the constitution of 1868, or to set up the present usurpation.

If banditti, or a mob of armed men, may take possession of a State, depose its officers, arrest its judges, close its courts, intimidate its people through violence and murder, provide its own way of holding and its own officers to hold elections, and its own officers to declare the result, and the fruits of such defiance of all law are binding upon the people of such State and upon Congress, then the present pretended government of Arkansas is legitimate, and must be recognized as such, but not otherwise.

And I have not stated it too strong, for those who will read the extracts I have given from the mass of evidence taken by the committee must be satisfied there was a reign of terror throughout Arkansas during the period in which the so-called Garland government was being formed and set in motion, entirely inconsistent with a full and fair expression of the will of the people on that subject.

The capital city was overrun with the drunken and lawless Governor's Guard, which assaulted private citizens, abused and beat negroes, searched and rummaged private houses and private offices, and threatened everybody who opposed Baxter with arrest, imprisonment, or exile from the State.

At and about Pine Bluff, King White, a drunken, reckless man, proclaimed martial law, and arrested and imprisoned the leading men without shadow of cause; and then they were offered freedom on condition that they would support the movement for a new constitution.

North of the capital, in Conway and Faulkner Counties, Jeff K. Jones, upon whose head Baxter himself had set a price as upon an outlaw for the murders he had committed, had a gang of desperate men committing murder, arson, and violent acts of all kinds upon Union and Brooks men; and Baxter knew of these things, and made no attempt to restrain them or to arrest the murderer, Jones.

In Hot Springs and Perry Counties like unlawful violent acts occurred. Men in office were impeached without cause or notice and ejected by military power; property of private citizens was taken illegally and without compensation to the owners.

The judges of the supreme court were arrested by armed force, subjected to insults and abuse, concealed, and finally spirited away to be assassinated if an attempt should be made for their rescue or they attempt to escape.

False charges were made against obnoxious men, and the arrests made thereon were intended for and used to cover cold-blooded and cruel murder, as in the case of the colored man Ned Abes.

Mounted bands of desperate men roamed the country to awe and intimidate the colored people, even at their barbecues and jubileations.

Men high in command of the so-called militia and at the head and in presence of a strong force of their own men threatened quiet and peaceable citizens with death by hanging, as in the case of General Churchill at the barbecue on the 3d of July last.

Baxter himself was daily muttering his curses, and, surrounded by his troops, selected because they were desperate and would fire on the supreme court constantly, uttered his profane threats to arrest and hang or drive from the State the last Brooks man.

And this was the quiet which gave a "fair election;" this the condition of the people when their government was overthrown and a new one set up.

There is little to be added to such a showing as this. Under these circumstances, with confusion, intimidation, illegality, fraud, the State government of Arkansas was subverted, and in the direction which I mentioned yesterday. It was seized as part of a general plan to seize every one of the reconstructed States, in order to bring back a system of peonage there.

The same is true of Alabama, except that it has not yet proceeded to its full result. I have here a letter of a correspondent of the New York Times, a paper very hard to convince of the true condition of things in the South. The paper sent its own correspondent to Alabama to make a report that it could trust. That correspondent, writing under date of January 2, says :

Thousands of men voted the democratic ticket against their conviction from

fear of violence or loss of employment, and many thousands more failed to vote at all from the same cause. The northern people can have no conception of the state of society here, and the testimony taken before the committee cannot but make a deep impression. The evidence fully shows that a republican form of government cannot be maintained in the State of Alabama without the aid of the United States troops.

The evidence shows that the churches and school-houses of the colored people were burned and destroyed by white democrats only because the colored people who worshiped and sent their children to school therein were republicans; that armed white democrats, in companies of hundreds, visited some of the more intelligent of these colored people, beat them, and drove them from their homes.

On the Georgia border white democrats came to this State and voted not only once, but in some instances three times, and led negroes to the polls and made them vote the democratic ticket. At Girard, in Russell County, the police from Columbus, Georgia, surrounded the polls and kept possession of them all day. It has also been found that the polls at Spring Hill, Barbour County, were destroyed by democrats and about six hundred votes lost to the republicans, and the son of Judge Kiels, who was the United States supervisor, was killed; also one hundred and fifty colored republicans killed and wounded at Enfauila, in the same county, on the day of election, by armed democrats, and upward of five hundred republican voters driven away from the polls.

Not a particle of evidence has been furnished by the Alabama democrats, or anybody else, that the United States troops in the slightest degree interfered with the election. On the other hand, the subordinate military officers were so bound up by General Order No. 75 that they did not feel authorized to do anything, or extend any help whatever to the election officers, except when called upon to assist United States marshals in the execution of writs issued by the United States courts. The proscription, social ostracism, withdrawal of business, and loss of employment among republicans, on account of politics, amounts to a reign of terror, and thousands of voters were lost to the republican party at the late election from these causes.

Alabama is in the same condition as some other States that have been brought more prominently into public notice. Here it is stated by one who heard the evidence that churches and school-houses of colored people are burned by white democrats, that colored men are beaten and driven from their homes, and that the northern people can have no conception of the state of society produced by these frantic efforts to destroy republicanism in that State.

I say to the Senate and I say to the country that we are grappling with a barbarism at the South that will make the negro a savage and the South a desert. The Missouri Democrat, in a long editorial article recently summing up the condition of affairs politically and otherwise in the South, said:

Having daily communication with the people of the South, and feeling their spirit in this very State, *we tell the people of the North that equality of civil and political rights and even freedom of labor will go by the board*, unless some measures are taken to keep up other government than any that southern democrats will maintain. We believe, friends of the North, that this is the solemn truth, which long before the presidential election will force itself upon your reluctant recognition. Vicksburgh is only the vanguard of an army of riots.

I believe that it is the duty of the Senate to take warning by these things which are transpiring in the South. The evidence has been accumulating for years; our tables are piled with it. It comes to us upon every breeze which is wafted from the South. There can be no reason to doubt that unless this Congress shall take effectual means to check the outrages and wrongs in the South the very forms of republican government will be lost and the last rights of the people be trampled under foot; that one-half of the people of the South will have no political rights whatever, and that the blacks will be again reduced to slavery. For myself I desire most earnestly to assist in legislation that will check these evils and make this cowardly ruffianism unsafe; and I am determined, as far as I can, to stand by the helpless and oppressed there, and to sustain the Chief Magistrate of the United States in his efforts to restrain revolutionary disorder and enforce the laws in the South.



30  
Verba Buena Island.

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REMARKS

OF

HON. AARON A. SARGENT

AND

HON. JOHN M. COGHLAN,

OF CALIFORNIA,

DELIVERED

IN THE HOUSE OF REPRESENTATIVES,

APRIL 23, 1872.

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WASHINGTON:

F. & J. RIVES & GEO. A. BAILEY

fear of violence or loss of employment, and many thousands more failed to vote at all from the same cause. The northern people can have no conception of the state of society here, and the testimony taken before the committee cannot but make a deep impression. The evidence fully shows that a republican form of government cannot be maintained in the State of Alabama without the aid of the United States troops.

The evidence shows that the churches and school-houses of the colored people were burned and destroyed by white democrats only because the colored people who worshipped and sent their children to school therein were republicans; that armed white democrats, in companies of hundreds, visited some of the more intelligent of these colored people, beat them, and drove them from their homes.

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## Verba Buena Island.

The House having under consideration the bill (H. R. No. 1553) relating to the Central Pacific Railroad Company—

Mr. SARGENT said:

Mr. SPEAKER: The interests of the State of California are deeply involved in this bill. I have endeavored to examine it without too much regard for the extravagant denunciations of those who would peril every material interest of the State out of personal hatred for the railroad company, and without being too much influenced by the scurrilous abuse of those whose private interests are put in the scale against the great wants of commerce and preferred to the real good of our queen city. On one hand in this contest in California are those who can see no good in anything that is not inimical to the railroad company, reinforced by those who would create rival towns at Saucelito or elsewhere; on the other those who think the question is broader than a strife of localities, and who care for the general business of the State and nation.

So far as the interests of the company are concerned, while I believe in justice to them, I more strongly believe in the necessity for facilities to move our vast wheat crop, to entice the trade of Asia, and to give an outlet to our manufactures to the opulent and extending markets of the East. That I and my colleagues are not alone in our views on this matter I am prepared to prove. I admit that San Francisco has spoken by the ordinarily recognized modes against the bill that was last considered by the House. In deference to the objections that seemed to be urged by respectable organs of public opinion, I have counseled such modifications as would obviate all those objections; and the suggestions have been heeded.

It was objected that a solid causeway from Oakland to Goat Island would turn all the water between the island and the city of San Francisco so as to increase the strength of the

tides, scour away the holding-ground at the bottom of the harbor, and perhaps affect the entrance. But it was said by Professor Peirce, by engineers recently, and by all other authorities, that a bridge with piers three hundred feet apart, &c., would not have that effect. Very well; the very language of the engineers has been adopted to regulate the construction of the bridge.

Again, it was urged that the company could use the island for wharfage and warehouse purposes, and thus impose taxes on commerce or build up a new city. That is expressly prohibited in the bill, and guards inserted making it impossible.

It was said that property would be built up not liable to taxation under State laws. That is guarded against by a provision rendering the property liable to such taxation. Every point of objection has been sought to be avoided, save the one that no terminus except an insecure wharf end shall be afforded to the greatest railroad of the world.

Mr. HOLMAN. I rise to a point of order. Is this whole subject open to debate on a motion to reconsider?

The SPEAKER. The motion to reconsider opens debate in the widest sense.

Mr. SARGENT. But I am fully prepared to show that the bill as it existed before these modifications had the approval, at any rate was not objected to by the people and press of San Francisco. I think it is fair to infer the sentiment of San Francisco from the course of its Senators, if that course was never challenged. The bill was fully considered in the Senate in 1868 in the form in which it was recently reported from the Committee on Pacific Railroads. I have the debate in my hand, and will call attention to a few passages. Both California Senators engaged in the debate, and I cite the language of one of them on the subject. The Globe has the following:

"Mr. COLE. There is certainly nothing in the way of building the road to the shore of the mainland

and out into deep water opposite San Francisco in case they choose to stop there rather than to go to this island. However, I am quite willing that this company shall have their depot and place of transshipment upon the island of Yerba Buena."

So far at least as the two Senators of that day, Mr. Conness, who supported the bill, and Mr. COLE, were concerned, there was an entire willingness "that this company should have their depot and place of transshipment upon the island of Yerba Buena." Nothing more was proposed in the bill recently before the House.

But in that debate there cropped out the villainous scheme, in support of which there is now a ravenous lobby prowling about the Capitol, to deliver over this island to speculators. This is a big job, worthy of notice, that it would seem only corrupt fingers could handle. There is a scheme on foot, and then had its inception, to give Yerba Buena island to private claimants who had and have no more right to it than I have, and this in disregard of any wants of the Government for fortification purposes, and in view of the further fact that the only use of the island could be for fortifications or for a railroad terminus.

I need not say that if these schemes could succeed the island would be at once sold to the railroad company, and that that is the object of this pressure for the title by these hungry individuals who bore us with importunities to have this island made over to them. How San Francisco would be benefited by transferring this land through Thomas Dowling, or rather through those who hold his "title," to the railroad company, instead of the company getting it by a direct grant, has never been explained, and probably will not be. Gross and exaggerated stories, known, I think, to be false, were told in that debate to bolster up the pretensions of these lobbyists to the island. I quote from the Globe:

"Mr. COLE. I move to amend the bill by inserting as an additional proviso the following:

"And provided further, That this act shall not impair the rights or claims of persons in possession of the island of Yerba Buena at the time of the military occupation thereof, or who have been ousted therefrom by military force, nor the assignees or grantees of such persons; but such rights and claims shall be ascertained and liquidated according to the laws of California.

"Mr. HOWARD. I hope that amendment will not be adopted.

"Mr. COLE. The facts, so far as this amendment is concerned, are, that there were persons in possession of this island, living there with their farm-houses and improvements, who had been there for many years. I think their occupation began before the acquisition of the country by the United States. They were in quiet and peaceful possession of their homes upon the island until about a year ago, or perhaps until the year 1866, at which time, after the war had ended, the military authorities took possession of the island and ousted these parties. This was done by the strong arm of military force, and without any adjudication of their rights. These persons were in possession of this property by as much right as other citizens in San Francisco held the property that they occupied; for it will be remembered that this island is within the boundaries of the city of San Francisco. Other persons upon the main land in the city of San Francisco regard themselves as justly entitled to the property they

were in possession of, and which has been granted to them by the local authorities and by Congress. This possession of the island, dating back prior to the occupation of the country by the United States, gives these parties a right superior to that which was acquired by the United States by the proclamation of the President in 1850 or 1851, which declared this to be a military reservation.

"I know it has been stated that this island is a rocky island. There are rocks upon it; but there is also good land upon it. These persons were there before the military occupation, with their dwellings and their out-houses, and they had their orchards, their cattle, and other stock. They were living there as quietly and peaceably as any people were living in any other portion of the State. I do not charge that there was any motive for the use of military force to get these persons out of possession, springing from the railroad company, because I do not know that that is the case, and I do not believe that that is the case. I believe that the military thought they had a right to this property, and took it in the manner they did for military purposes. But these people have been ousted; they have been driven from their homes; they have been forced to abandon their works there; their wharves, their quarries, and their fields; and if this company is to come in and take possession of this island, or any portion of it, it should pay these parties the little value that will be attached by a commission, under the laws of California, to their possession and improvements. I hope, therefore, that the Senate will acquiesce in this amendment. It is only an act of justice to parties who have been overridden by the military authorities, and whose rights have not been properly respected.

"Mr. HOWARD. If the Senator will allow me, he is speaking of improvements made by those settlers. I beg him to state, if he is able to do so, what those improvements are.

"Mr. COLE. I have already stated what those improvements were. They consist of farm-houses, out-houses, orchards, wharves, quarries, and other things too numerous to mention—valuable improvements which I have myself seen, and which anybody can see any day from the ferry-boat that passes from San Francisco to Oakland. These persons are, in my judgment, clearly entitled to some consideration."

As a closing bit of that history, showing that I was right in inferring the sentiment of San Francisco not to be unfriendly to this bill, by the course of its Senators, which has never to this day been challenged, I give the vote on the bill, taken a few minutes after the foregoing remarks, as follows:

"The PRESIDENT *pro tempore*. The question is on the passage of the bill, on which the yeas and nays have been ordered.

"The question being taken by yeas and nays, resulted—yeas 23, nays 8; as follows:

"YEAS—Messrs. Chandler, Conkling, Conness, Corbett, Davis, Drake, Fowler, Harlan, Howard, Howe, Johnson, McCreery, McDonald, Morgan, Morrill of Maine, Nye, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Ross, Stewart, Sumner, Thayer, Tipton, Wade, Williams, and Yates—23.

"NAYS—Messrs. Anthony, Edmunds, Hendricks, Morrill of Vermont, Morton, Trumbull, Vickers, and Willey—8.

"ABSENT—Messrs. Bayard, Buckalew, Cameron, Cattell, Cole, Cragin, Dixon, Doan, Little, Ferry, Fessenden, Frelinghuysen, Grimes, Henderson, Norton, Pomeroy, Rice, Saulsbury, Sherman, Sprague, Van Winkle, Welch, and Wilson—22.

"So the bill was passed."

That Mr. COLE was in his seat is shown by the Globe, which reports him as making a remark a few minutes after on the "exportation of rum." So, of its two Senators one voted for and defended the bill, the other said he was willing it should pass, evincing only an anxiety that no advantage should be lost by



private speculators, and he evaded the final vote.

That this scheme for the benefit of private speculators is not dead, let the following bill, introduced into the Senate, show, as also the memorials that have been laid on our tables this morning, copies of those heretofore disposed of by the Judiciary Committee:

IN THE SENATE OF THE UNITED STATES,  
February 2, 1871.

Mr. CASSELY asked, and by unanimous consent obtained, leave to bring in the following bill; which was read twice, referred to the Committee on Private Land Claims, and ordered to be printed:

A bill to settle the title of Yerba Buena or Goat Island, in the bay of San Francisco, California.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the island of Yerba Buena or Goat Island, lying and being in the bay of San Francisco, in the State of California, one mile and a half distant in an easterly direction from the United States custom-house, in the city of San Francisco, in the said State of California, be, and the same is hereby, confirmed to Thomas H. Dowling, who claims the said island under a grant from the Mexican Government: *Provided,* That the President of the United States may reserve such portion of said island for military purposes as he may think necessary, not exceeding ten acres, due compensation being made to the said Dowling for the said portion so reserved or to be reserved.

These schemes come up whenever Goat Island is talked of as a railroad terminus, and it is astonishing how anxious their promoters are lest the Government be swindled by giving it up for railroad purposes.

I find in the Alta California just succeeding that date, and in other San Francisco papers, a reference to the action on the bill, but no words of objection. There were no resolutions by the Chamber of Commerce, no public meeting, no petition, and no excitement.

Again, this bill was considered in the House of Representatives on the 15th of June, 1870, and came very near passing. I voted for it, as did my two Democratic colleagues. What ever other sins were laid to our charge that vote never was by any one, either at the time the vote was given or afterward. In that debate the gentleman from Michigan [Mr. BLAIR] said:

"I had occasion to become a little acquainted with the situation of this island and the Bay of San Francisco while I was on a visit to the Pacific coast last summer with the Committee of Ways and Means of this House. On the 4th of July last, General Ord, commanding at San Francisco, accompanied the members of the Committee of Ways and Means, with a large number of intelligent gentlemen, citizens of the city of San Francisco, and a considerable number of the officers of the Army attached to his command, to all the ports in and around the Bay of San Francisco. During that visit there was a great deal of discussion as to the necessity of retaining this island by the Government for military purposes, as to its value in that regard, and as to its value in other respects. I remember that the subject was discussed quite at large as to whether the building of a railroad track from Oakland across to the island would interfere dangerously with the navigation of the waters of that bay. From my present recollection of the matter, I think there was a general opinion expressed that there would be no difficulty in so constructing the road as not to make such an interference. I know my own mind settled down very positively upon that opinion."

This testimony of the opinion existing with

"a large number of intelligent gentlemen, citizens of San Francisco," coming from an impartial source, is worthy of especial note, in view of the violence in that city against those who recently voted in ignorance of the rampant hostility that has been stirred up so suddenly. But more than this, this speech of the gentleman from Michigan was transmitted to San Francisco, and was there published in the Alta California—the paper that would now burn and hang all who think more of San Francisco than of Saculito. As this extract shows that that paper and the people of San Francisco knew exactly what was said *pro* and *con* on the bill, I will read it entire *verbatim*, or rather will ask the Clerk to relieve me by so doing. It is found in the Alta of June 27, 1870:

The Clerk read as follows:

"The Goat Island Bill in the Senate.—The following debate was held in the House of Representatives, June 15:

"The bill granting Yerba Buena island to the Western Pacific Railroad Company for a terminus, came up as unfinished business of yesterday, when the opponents of the measure again resorted to dilatory motions to prevent its passage. After an hour of filibustering, Mr. DAWES, of Massachusetts, who said he had voted for the bill in every stage of it, suggested that the opponents of the bill should have fifteen minutes to state their objections to the bill, and that the same time be allowed to the friends of the bill.

"Mr. GARFIELD suggested that the amendment be also admitted, requiring the company to pay for the island such sum as might be fixed by the Secretary of the Interior.

"The SPEAKER remarked that the main question having been ordered, the bill was not now amendable.

"The proposition made by Mr. DAWES was acceded to, and Mr. Washburn, of Wisconsin, proceeded to state his objections to the bill. He said that if the Representative from Brooklyn should come in with a proposition to give Governor's Island to the Long Island Railroad Company, and to allow that company to bridge across between Governor's Island and Long Island, it would be practically the same proposition as that before the House. This proposition was an old friend of his. While General Grant was Secretary of War he stated that on no condition should the island or any part of it be parted with by the Government. If the island was put up at auction it would probably bring \$5,000,000, and yet it was proposed to give it away to a railroad company that had already received \$35,000,000 in bonds and untold millions of acres of land. He knew that it was the most powerful corporation in the United States; that it could make Representatives and Senators, and perhaps Presidents; but he warned members that the country was in no condition to tolerate such action as was proposed. He quoted against the bill the opinions of General Humphreys of the engineer department, and of Professor Peirce of the Coast Survey, who says that the building of a railroad between the island and Oakland would be disastrous to the harbor of San Francisco.

"Mr. WHEELER replied to Mr. Washburn and advocated the bill. There was no parallel, he said, between Yerba Buena island and Governor's Island, for vessels of any considerable draught could not pass on the east side of Yerba Buena island. The opinion of Professor Peirce was founded on the idea that there was to be a solid causeway built between the east end of the island and Oakland; but the bill provided that the work should be open so that the water could flow through without obstacle.

"Mr. BLAIR supported the bill, and stated that, in company with General Ord, many United States officers, and some of the most respectable citizens of San Francisco, he had, on the 4th of July last, made an excursion in and around the bay of San

Francisco, when the subject of building a railroad across Goat Island and between it and Oakland was discussed, and the general idea was that it could be done and would not interfere with the harbor. He argued that a railroad would not injure the island for military purposes, but, on the contrary, would improve it, and it would be convenient to the people and to commerce.

"The vote was then taken on the passage of the bill, and it was rejected—yeas 80, nays 82. A motion to reconsider was entered."

Mr. SARGENT. Now, sir, I have carefully examined the file of the Alta on that day, and for a month later, and there is not a word of dissent from the statement of the gentleman from Michigan, of objection to the passage of the bill, or to the united vote of the California delegation in its favor. Where were these vigilant guardians of the interests of San Francisco? Why were not crowds of "hoodlums" collected to burn my name and that of my colleagues and of "those who voted for" us? This zeal is new-born and suspicious. San Francisco is being deceived by the base schemers who would betray its interests to private advantage. Any objection now existing to the use of Goat Island as a railway terminus existed then. Why was it not urged? Why was not an admonition given to the Representatives of the State? Why wait until they had again acted in just the same manner and then abuse them with scurrilous tongue? Up to a few weeks ago no lisp of opposition was made in San Francisco, either by press or people. The state of opinion that the Ways and Means Committee found there in 1870 existed until 1872, months after the Representatives of the State had left the State and assumed their duties here. This acquiescing attitude of San Francisco on this question was to be expected, and, despite its recent ebullition, is in consonance with its interests. It is idle to talk of California's Representatives as enemies to San Francisco, and no inference is justifiable to that end arising out of their support of this bill.

The passage of this bill, if its terms should be accepted by the railroad company, would be a boon of incalculable value to San Francisco. The leaders of the opposition to the measure at San Francisco are equally opposed to any other project for making that city the terminus of the Central Pacific. They have private schemes in view. It will hardly be believed, but it is nevertheless true, that some adventurers, in the hope of plundering the people of San Francisco by means of a donation to a rival road, are understood to have already devised a scheme for falsely construing an act of Congress six years old to contain a grant of lands for hundreds of miles in the State of California, terminating at San Francisco. They clamor against allowing the present road to enter the city by any mode whatever. The Bulletin, a journal of great influence, has steadily insisted upon city aid for the construction of a railroad bridge from Oakland Point to the peninsula. The same paper, however, found it entirely consistent with its ideas of San Francisco interests to

entertain the Goat Island project as being also friendly to the city, preferring, however, a bridge across the bay. These two projects are both equally denounced by the Alta California, which fiercely opposes the entrance of the Central Pacific into San Francisco on any terms.

The clamor and din against any approach to San Francisco by the railroad has been kept up in that city so loudly and continuously by selfish schemers that no other voice has been heard. The people will never forgive these men when calm reflection shall enable them to see the mischief they intend against the city. They must have had their eyes opened to some extent by the correspondence which has recently taken place between the leaders of the opposition to this measure and the officers of the United States engineer corps and the Coast Survey. As this correspondence contains the most complete argument in favor of this bill that has yet been made, and as the enemies of the bill elicited it by their own questions propounded to gentlemen selected by themselves as being the highest scientific authority, gentlemen whose disinterestedness is universally conceded, I will here introduce it:

*Bridging the Bay—Opinions of the United States Engineers—Various Bridge Projects Discussed.*—The following correspondence between the mayor and prominent citizens and officers of the United States engineer corps and Coast Survey, will be read with interest:

SAN FRANCISCO, March 14, 1872.

GENTLEMEN: You are doubtless aware of the present unsettled and feverish state of public opinion in San Francisco touching the connection of our city with the railroad system of the State. Situated as it is upon the extremity of a peninsula, and consequently cut off by the waters of the bay from direct railroad communication with the country on whose trade it depends, the problem of making it the railroad center, as well as the commercial metropolis of the State, seems to present great difficulties. The engineering obstacles are aggravated by the facts that the city has no voice in the management of the railroads, while the railroad company has no such interest in the city as to lead it to make sacrifices merely for the accommodation of its people. In connection with these considerations, the contests hitherto waged between the several points at which the company has secured large tracts of land, apparently for terminal purposes—to say nothing of their designs upon Goat Island—have created a distrust which exerts a most baneful influence upon the future prospects of our city.

Public opinion, distracted by the opposing views of newspaper writers, by the ever-changing rumors of the intentions of the railroad company, and by the interested advice of railroad men and real-estate operators, has been unable to settle down upon any one plan as better than all the others suggested. Accurate knowledge, whereon to base correct opinion, is lacking. There is abundant capital ready for investment in that property which shall most surely and permanently anchor the railroads to the city. But the question is, what is that project? What plan of operation is most feasible and most certain to decide the vexed question of the terminus in favor of the city of San Francisco?

It has occurred to us, therefore, to address you, as the highest local authority on engineering matters; as being professionally familiar with all the elements of the problem, and wholly disinterested in its solution, in the hope that you will be inclined to favor the public of this city with your concurrent opinion on the following questions:

1. What would be the effect, if any, in shoaling the harbor and bar of San Francisco, consequent



upon the erection of a bridge resting upon piers, connecting Goat Island with Oakland Point?

2. What would be the effect upon the harbor and bar, of a solid causeway between those points? What the effect of a continuation of the present pile bridge?

3. Is it possible to build a permanent bridge or causeway across the Bay of San Francisco, at any point south of the city?

4. If yes, between what points on the two sides of the bay—everything carefully considered—would you recommend such bridge or causeway to be located?

5. What description of bridge or causeway would you recommend? If a bridge, what would be its length, breadth, height above high-water mark, distance between the piers? Where would you locate the draw? What would be the approximate cost of such a structure? And what would be its effects in shoaling the harbor and bar?

6. Do you consider that a bridge, wherever located, or however constructed, would be as economical, or any more direct, or any more effective in fixing the terminus at San Francisco, than the use of steam ferry-boats of sufficient capacity to accommodate an entire train of freight or passenger cars? Such boats are used between Plattsburg and Burlington, on Lake Champlain, a distance of twenty-five miles, on the line of the railroad between Ogdensburg, New York, and Boston; also across the Susquehanna, at Havre-de-Grace, Maryland.

7. Is it a fact, as intimated by Governor Stanford, in his letter of the 11th instant to the board of supervisors of San Francisco, (copy inclosed,) "that the Southern Pacific railroad will, in order to avoid the heavy grades necessary consequent upon passing from the Tulare valley into the Santa Clara valley, be compelled to send its business by the way of the San Joaquin valley, and thus reach San Francisco in company with the railroad system of the north by the Livermore pass, or by the straits of Carquinez and Oakland?" Is the topography of the Diablo range, south of this city, of such a character that the thirty-fifth parallel road will be unable to reach San Francisco on a direct line from the southward up to the peninsula?

If gentlemen, you can spare enough of your valuable time to give to the public the benefit of your united opinions on these questions, and also to recommend such plan for permanently connecting the railroads with San Francisco, as shall appear to you to be the most feasible, economical, and effective, we are confident you will contribute greatly to unite the minds and means of the people in the work of its execution, and thus confer an inestimable benefit upon all our citizens.

We remain, gentlemen, your most obedient servants,

WILLIAM ALVORD.

R. B. SWAIN.

*President of Chamber of Commerce.*

WILLIAM T. COLEMAN,

*First Vice President of Chamber of Commerce.*

JAMES OTIS.

H. B. WILLIAMS.

JOSEPH BRITTON,

J. T. DEAN.

J. H. ALLEN.

W. W. MONTAGUE.

C. T. HOPKINS.

C. ADOLPHE LOW.

J. C. MERRILL.

W. C. TALBOT.

JOHN O. EARL.

CHARLES WEBB HOWARD.

E. B. MASTIC.

P. SATHER.

GEORGE C. HICKOX.

H. B. TICHENOR.

M. ASHBURY.

ALBERT DIBBLEE.

General B. S. ALEXANDER, *United States Engineer*;  
Professor GEORGE DAVIDSON, *United States Coast Survey*;  
Colonel H. S. WILLIAMSON, *United States Engineer*;  
Colonel GEORGE H. MENDELL, *United States Engineer*;  
Colonel C. S. STEWART, *United States Engineer*;  
Captain A. F. RODGERS, *United States Coast Survey*.

SAN FRANCISCO, March, 1872.

GENTLEMEN: We have carefully considered the several questions presented to us in your letter of the 14th instant.

These questions and the issues to which they lead are broad and comprehensive in their character, depending for their solution, not alone on problems in engineering, but, to some extent, on considerations of political economy.

In reference to these latter considerations we beg leave to remark, that after several conferences we find that the limited time at our disposal, the want of that particular kind of information necessary to enable us to present this branch of the subject in such shape as would secure to it reference hereafter as a useful compilation of facts and opinions, as well as the nature of the subject itself, involving as it does the application of some of the most important principles by which the economy of trade and commerce is secured, all combine to render it impossible for us to give you a full report on this branch of the subject. We think it best, therefore, to confine our observations, at least for the present, to answering the several specific questions which you have propounded to us, namely:

*Question.* What would be the effect, if any, in shoaling the harbor and bar of San Francisco, consequent upon the erection of a bridge resting upon piers, connecting Goat Island with Oakland Point?

*Answer.* A bridge on piers between Yerba Buena Island and Oakland Point would have no appreciable effect in shoaling the San Francisco harbor or bar, if the bridge were built on small piers with spans of three hundred or four hundred feet; in other words, the number of piers reduced to a minimum and also of the least possible width consistent with safety, and so placed and shaped with reference to the channel and the direction of the tides as to offer to them as little obstruction as possible. The superstructure of such a bridge with long spans would have to be of iron. The cost would depend to some extent on its character—whether a simple railroad bridge or one combining the two purposes of railroad and highway traffic and travel. The cost would be from four to six million dollars.

*Question.* What would be the effect upon the harbor and bar of a solid causeway between those points? What the effect of a continuation of the present pile bridge?

*Answer.* A solid causeway between Yerba Buena Island and Oakland Point would work immediate, direct, and irreparable injury to the harbor of San Francisco, and though the injury to the bar would be indirect and not so immediate, it would be not less certain or irreparable. The immediate effect of such a structure would be to cause "dead water," a stoppage of the tidal current now flowing between Yerba Buena and the Oakland shore, commencing at a point at low water opposite to Hunter's Point, and extending in a line slightly concave toward the east, and the western extremity of Yerba Buena Island. The main ebb current would follow this line, forming whirls and eddies on the perimeter of the curve, with "dead water" toward the Oakland shore and the causeway. The mouths of San Leandro and San Antonio estuaries would gradually fill up. The current reaching the western side of Yerba Buena, would here move with a cutting velocity and take off all assailable angles and points of the shore. Reference to the accompanying chart will show what the island has done unaided by artifice in forming a shoal upon its north shore. This is the simple effect of the "dead water" caused by the interposition of so large a body as the island to the flow of the tide. A causeway to the Oakland shore, with its additional obstructions to the current, would effect a connection of the shoal north of the Yerba Buena with Point Richmond, seven miles to the northward, on the eastern shore of the bay. It is safe to say that a tidal area of not less than forty square miles (twenty-five thousand six hundred acres) in the Bay of San Francisco, would be directly obstructed by the causeway suggested, while the indirect effect upon the regimen of the tides in other parts of the bay can hardly be predicted or estimated with safety.

To continue the present pile wharf from Oakland Point to Yerba Buena island would produce the same effect, though in less degree, as to build a



solid causeway; a single decade would, in all probability, go far toward shoaling the water on either side of such a bridge, leaving the bottom bare at least at every low tide, and with rapid subsequent progress toward a closure of the channel between the island and the Oakland shore.

**Question.** Is it possible to build a permanent bridge or causeway across the Bay of San Francisco at any point south of the city?

**Answer.** The interests of the United States, of California, of commerce, and the mandates of science, all protest against the building of a causeway or any other solid structure anywhere between any points across the Bay of San Francisco.

It is entirely within the range of possibility to build a permanent bridge across the Bay of San Francisco south of the city. The difficulties of obtaining secure foundations for piers are as yet unknown, but they can scarcely be greater than those which have already been overcome by science in other localities, and as regards the whole structure we may appropriately quote from the report of the chief of engineers for 1871, (page 432.)

"It is proper to state here in regard to long spans of four hundred feet and upward, that they are not impracticable at reasonable expense, and, that when properly proportioned, they are more stable and safe than smaller spans, because their own weight is so great in proportion to the moving load that the latter changes the permanent strain but little. High piers, proportionally widened and lengthened, are just as firm as low ones, and the greatest pressure the stone has to sustain is not one tenth of its crushing load."

**Question.** If yes, between what points on the two sides of the bay, everything considered, would you recommend such bridge or causeway to be located?

**Answer.** The answer to this question must be conditional upon the location of the railroads and their convenience of transit to a point on the city front adjacent to the center of business. If the main trunk roads of the continent are likely to converge at a given point on the opposite side of the bay, the eastern end of the bridge should, of course, be as near that point as the three collateral elements of the shortest line, the shoalest water, and the least impediment to navigation will permit. To illustrate this, select a given point on the opposite side of the bay as the supposed point where all the main roads can most conveniently unite; locate the terminus on this side of the bay, and, using a chart for the purpose, draw a line between the two points; the true bridge line should be as near to this imaginary one as the collateral elements of the question mentioned above will admit.

**Question.** What description of bridge or causeway would you recommend? If a bridge, what would be its length, breadth, height above high-water mark, distance between piers? Would you recommend stone, iron, or crib-work, for piers? Where would you locate the draw? What would be the approximate cost of such a structure? And what would be its effect in shoaling the harbor and bar?

**Answer.** As to the description of the bridge, it may be stated that if it is necessary to build a bridge across the Bay of San Francisco, the materials should be as nearly imperishable as possible; the piers of as little width as may be consistent with safety and "sharpened at the ends" so as to offer the least resistance to the current; the width of the piers between high and low water should not exceed ten or twelve feet; their length, depending upon the width of the bridge, should be parallel with the current; the distance between the piers should not be less than four hundred feet over the main channel; the height of the bridge not to exceed ten feet above high water; the piers should be of masonry, the superstructure of iron.

The total length of a bridge between Alameda and Hunter's Point would be a fraction under five miles; this would require sixty-five piers, if four hundred feet spans were used.

Suppose the average thickness of the piers be fifteen feet, they would aggregate the sum of nine hundred and seventy-five feet taken from the water-way, which would be one twenty-seventh part of the width of the bay between the points named. The first two miles of the eastern end would be through shoal water, commencing on the shore at zero and running

to eighteen feet, the average depth about nine feet at low water; the western three miles would be across the main channel of the bay; the least four fathoms, twenty-four feet, the greatest twelve fathoms, or seventy-two feet at low water; the average of this part of the line would be not far from forty-four feet at low water.

The distance between Alameda Point and Rolling-Mill Point is a little less than five miles. A bridge between these points would pass for the eastern two miles through water averaging nine feet in depth at low water, the extremities being zero and eighteen feet; the three miles across the main channel would be in depths varying from four fathoms, twenty-four feet, to nine and one fourth fathoms, fifty-six feet—the average depth would be about forty feet at low water; the comparative evenness of the bottom on this line and its direction being at right angles to that of the current in this part of the bay, would, other things being equal, make it more desirable.

The draw, if but one, should be about one mile from the San Francisco shore, and of a width of not less than four hundred feet.

If such a bridge is ever undertaken, it ought to be first class in every respect.

The interest connected with it after completion would be too great to permit the risk of its destruction by fire or any other causes within the compass of man's ability to prevent.

It ought to accommodate a double-track railroad overhead, and roads for ordinary transit below.

The cost would depend to a considerable extent on the nature of the foundation.

If no very great difficulties should be encountered, except from the depth of water, the approximate cost of such a bridge would be \$15,000,000.

**Question.** Do you consider that a bridge, wherever located or however constructed, would be as economical, or any more direct, or any more effective in fixing the terminus in San Francisco than the use of steam ferry-boats of sufficient capacity to accommodate an entire train of freight and passenger cars? Such boats are used between Plattsburg and Burlington, on Lake Champlain, a distance of twenty-five miles; on the line of the railroad between Ogdensburg, New York, and Boston; also, across the Susquehanna, at Havre-de-Grace, Maryland.

**Answer.** We believe it will be preferable to use properly constructed ferry-boats for the present. Looking at the question of economy of transit only, we think that the railroad interests and the commerce of San Francisco will have to be greatly increased before the construction of a bridge across the bay will be justified.

For instance: if the cost of the bridge is \$15,000,000, the interest on the cost at seven per cent. per annum, will be \$1,050,000, to which must be added the cost of keeping the bridge in order, painting, attending the draw or draws, &c., say \$25,000, making the total annual cost of bridge and its maintenance, \$1,075,000.

Now, the cost of keeping up and running a first-class ferry-boat between this city and Oakland, capable of transporting twenty freight cars at a time, would not exceed \$100,000, or at most \$150,000 per year, so that the city or the railroad, as the case may be, looking at the question of expenditure only, had better keep a free ferry between this city and Oakland, consisting, if necessary, of seven ferry-boats, at an annual cost of \$150,000 each, rather than to build and maintain a bridge at an annual cost of \$1,075,000.

While, therefore, we admit the practicability of building a bridge across the bay, and the possible necessity of it being built at some future day, the large expenditure necessary for its construction should make it a question to be left to the judgment of those most interested, whose ideas of the urgency of the measure may be well qualified by their ability to meet the expenditure.

We are fully aware that there are other considerations bearing on this subject, but, as we have already said, we have neither the time nor the special information to enable us to discuss them at present.

**Question.** Is it a fact, as intimated by Governor Stanford in his letter of the 11th instant, to the board of supervisors of San Francisco, (copy inclosed,) "that the Southern Pacific railroad will, in order to avoid the heavy grades necessary consequent upon

passing from the Tulare valley into the Santa Clara valley, be compelled to send its business by way of the San Joaquin valley, and thus reach San Francisco in company with the railroad system of the north by Livermore pass, or by the straits of Carquinez and Oakland?" Is the topography of the Diablo range of this city of such a character that the thirty-fifth parallel road will be unable to reach San Francisco on a direct line from the southward up the peninsula?

*Answer.* From the best information we can obtain, we are of the opinion that Governor Stanford is correct in his statement that the Southern Pacific railroad will be forced by economical considerations to pass through the San Joaquin valley. And we believe that a train of cars placed at any point in that valley, from one end of it to the other, could be brought, at the present time at least, to San Francisco cheaper and in less time by the way of Antioch and the straits of Carquinez and Oakland, than by any other route.

This is not the shortest line, however, and the day may come when the business passing through the San Joaquin valley will become so great as to justify San Francisco or the railroad companies in piercing the Mount Diablo range of mountains by a tunnel at some point south of Livermore pass, in order to shorten the line of transit connecting the city with the eastern and southern railroads leading into that valley.

In that case it will probably be to the interests of San Francisco to have such railroads brought into the city on the western shore of San Francisco bay.

We inclose herewith a copy of the Coast Survey chart, entitled "Entrance to San Francisco bay," upon which we have marked the two bridge lines alluded to in this paper, namely, from Alameda Point to Hunter's Point, and from Alameda Point to Rolling-Mill Point; also, a causeway from the Oakland shore to Yerba Buena island, and that portion of the bay both north and south of the causeway, which would in time be filled up by its construction.

Very respectfully, your obedient servants,

B. S. ALEXANDER,

*Lieut. Col. Engineers, Bot. Brig. Gen., U. S. A.*

A. F. RODGERS,

*Assistant U. S. Coast Survey.*

G. H. MENDELL,

*Major of Engineers.*

C. SEAFORTH STEWART,

*Colonel U. S. Engineers.*

R. S. WILLIAMSON,

*Major U. S. Engineers.*

N. B. The absence of Professor Davidson from the city has prevented us from consulting him in the preparation of our reply to your communication.

Hon. WILLIAM ALVORD, Mayor of San Francisco, R. B. SWAIN, President of the Chamber of Commerce, WILLIAM T. COLEMAN, JAMES OTIS, and others.

Here we are told that a pier bridge to Goat Island would do no injury to the harbor, while a bridge to the peninsula would cost \$15,000,000. The Bulletin, which originated the latter project and clings to it tenaciously, declares that it can be carried out for a fourth of that sum. But the united opinions of the engineers who were selected by the mayor and Chamber of Commerce of the city as being best able to inform them must be taken as more authoritative than the belief of an editor, however able in his vocation.

The reply to the seventh question puts an end to any hopes that may have been entertained that the California connection with either the thirty-second or the thirty-fifth parallel road can for years to come enter San Francisco by its land side on the west. All transcontinental roads, then, whether existing or rival roads, must communicate with San Francisco by bridge or ferry across the Bay of San Fran-

cisco until in the years of greatness which will come to that city her trade will justify the tunneling of a range of mountains lying at the southeast. The only remaining question, then, is how to cross the bay. The present mode is by a ferry from Oakland, a distance of six miles shortened by a wharf extending into the bay, reducing the distance to about four miles.

Goat Island is less than two miles from the San Francisco shore. The bay between Oakland and the island is shallow, and a bridge which would meet all the demands of trade and do no injury to the harbor is, as the engineers tell us, entirely practicable. With such a work completed, and depots for freight and passengers in at least three localities on the San Francisco water front, and the largest ferry-boats plying from shore to island, each one capable of carrying a train of twenty cars loaded with freight, it would be difficult to show that San Francisco was being excluded from railroad connection. If this privilege is not granted and accepted by the company, the present ferry must be continued or the \$15,000,000 bridge must be built; and who shall build it? Shall a city of one hundred and fifty thousand people pay \$100 a head on every man, woman, and child for that purpose? Or shall a city loan be negotiated at seven per cent., and every man, woman, and child in the city be mulcted in the sum of seven dollars every year to pay the interest? The bridge seems entirely out of the question. Shall the ferry continue its present length, and the railroad track terminate as now, at a wharf of wood? Or shall it be reduced to less than two miles, and the solid rock of Goat Island be substituted for the piles which decay and are eaten by the teredo, making the wharf after a time not easy to be fixed, unsafe for the traveling public? These are the only questions to answer. Schemers who want to plunder San Francisco under a pretense of building a road to compete with the Central, upon the strength of a land grant which never existed, may vociferate unmeaning trash about injuring San Francisco by connecting her more closely with the balance of the world. It will always be in the power of San Francisco to bridge the bay when her growth and wealth shall be equal to the undertaking; but I see no reason why, in the mean while, two thirds of the water which now isolates her from the railway should not be bridged, and her people enabled in five minutes to reach the point for making up all local and eastern trains.

I venture the prediction that if this bill becomes a law and there should be any hesitation on the part of the company to accept the privilege with the conditions it imposes, the people of San Francisco will, with united voice, in less than a year be as earnestly urging the company to go to Goat Island as a portion of them are now urging us not to allow them to go there. I support the bill as a better friend



of San Francisco than those who are scheming to finger \$15,000,000 of its money as a subsidy to a rival line, or who wish to take the terminus of the Continental road to Saucelito.

In my remarks on this bill before I attempted to show further that the interest of San Francisco would be subserved by attracting Asiatic commerce; that that commerce would afford it a market which would build up its manufactories, give it unceasing employment in fitting, repairing, furnishing, and building ships, &c., far more valuable to its growth than enriching a few toll gatherers. I will not again dwell on these considerations, important as they are. My argument has not been answered except by the abuse of a disreputable newspaper, the *Alta California*, published by a speculator in the town lots of a pretended rival city.

But there is another side to this question which such papers overlook or designedly ignore. I and my colleague from the third district have a constituency that have much to say on this question, and their interests are in our hands. I do not believe there is any real antagonism between the interior and San Francisco unless the latter persists in enormous wharf charges, port dues, and expensive transhipment for every pound of freight that leaves the interior, as wheat, wool, ores, &c., and every pound of supplies consumed in the interior.

The course of one or two of the Bay papers would imply that there can be no representation of the State outside of San Francisco. For myself, I should plead if necessary *coram non judice*, that San Francisco has no right to try me in my representative capacity for my action in dealing with a measure affecting my immediate constituents, even if their interests were rival to those of that city. Until March next, at least, my allegiance and best services are due to the people who honor me with a seat here; and if I see that the farmers of the Alameda or San Joaquin valley are taxed needlessly a dollar a ton in getting their wheat to the Liverpool market, or the miners that much in shipping crude ores, or both for all they consume entering the Golden Gate, I shall ask no leave of any one outside of my district to remedy that state of things. Were this otherwise properly, why are States divided into congressional districts? Why does the line of my district separate me from San Francisco?

That there is not entire accord with the extreme views of ignorant and selfish San Francisco speculators in the rest of the State could be proved by a multitude of extracts from the California press, but I have not time to read them. I hold in my hand telegrams from prominent citizens of the interior that have been sent to me and my colleagues, which are not to be ignored by me if this is a local question. Here is one to my colleague:

SAN FRANCISCO, April 14.

Hon. JOHN COGHLAN:

The unanimous opinion of the people of Napa County is in favor of granting Goat Island to the

railroad company, as proposed by the bill now pending.

W. W. STILLWAGGON.

Here is one to me by the eminent engineer who removed Blossom rock from San Francisco harbor:

SACRAMENTO, March 29, 1872.

Hon. A. A. SARGENT:

In my estimation, as an engineer, I do not think that the occupation of Goat Island by the railroad would be an injury to the harbor of San Francisco, or the city. I deem the use of the island a matter of necessity to commerce; that every convenience should be extended to the railroad in discharge and receiving of freight.

A. H. VON SCHMIDT.

Here is the result of the vote taken on the proposition in the Assembly:

SACRAMENTO, March 29, 1872.

Hon. A. A. SARGENT, M. C.:

This is to certify that the Assembly on this day refused to pass a resolution requesting our Senators and Representatives in Congress to urge Congress not to lease a portion of Yerba Buena or Goat Island to the Central Pacific Railroad Company.

M. D. BORUCK, Chief Clerk

House of nineteenth session Legislature.

A resolution assuming and approving the opposition of the California Senators to the Goat Island grant was voted down by an overwhelming majority in the Assembly.

Mr. COX. Will the gentleman allow me to make a remark?

Mr. SARGENT. The gentleman will please not to interrupt me just now.

Here is a telegram from a majority of four of the State senate of California, a body having a Democratic, as the House has a Republican majority. These senators represent the people of thirty-five counties, in which live two-thirds of our population, and in which lies five-sixths of our territory. Among the senators who sign this telegram are the chairman of the committee on federal relations, the chairman of the committee on military affairs, the chairman of the committee on agriculture, the chairman of the committee on public lands, the chairman of the committee on swamp and overflowed lands, the chairman of the committee on roads and highways, the chairman of the committee on counties and county boundaries, and the chairman of the committee on finance. I will ask the Clerk to read the telegram:

The Clerk read as follows:

SAN FRANCISCO, April 12, 1872.

Hons. A. A. SARGENT, S. O. HOUGHTON, and J. M. COGHLAN:

Whereas the senate of the State of California is informed that a bill is now pending in the Congress of the United States, the object of which is to confer upon the Central Pacific Railroad Company the right to occupy by lease a portion of Goat Island for a terminus; and whereas neither this State nor the nation under the provisions of this act can be taxed one dollar to aid the railroad in improving this now useless island; and whereas by the report of Brigadier General Alexander and four other distinguished engineers in the service of the United States made to the citizens' committee of the city of San Francisco, dated March 14, 1872, said officers state that a bridge on piers between Yerba Buena Island and Oakland Point would have no appreciable effect in



shoaling the San Francisco harbor or bay if the bridges were built on small piers with spans of three or four hundred feet. And again they concurrently state that a permanent bridge structure entirely across the bay would cost \$15,000,000, while a bridge that would connect Goat Island with our system of railroad without injury to the harbor of San Francisco would cost but from four to six million dollars; and whereas a tax of from one to two dollars a ton is now imposed upon all freight crossing the Bay of San Francisco, which would be avoided if said island was joined by a bridge with the transcontinental railroad and its connecting lines and branches; therefore, in the interest of commerce and ship transportation, and for the benefit of the interior of California, as well as for the benefit of every State east of us:

*Be it resolved*, That our Senators and Representatives in Congress be requested to use all honorable means to procure the passage of the bill leasing a portion of Goat Island for the purposes of a railroad terminus.

We, the undersigned, members of the State senate of California, not having had an opportunity to vote on the above preamble and resolution owing to the press of business during the last days of the session, hereby certify that we cordially indorse the same, believing, as we do, that Goat Island is the natural western terminus of the Pacific railroad.

CHARLES KENT,

*Senator from Nevada County.*

STEPHEN WING,

*Senator from Toulumne, Mono, and Inyo Counties.*

T. J. KEYS,

*— Senator from Stanislaus, Merced, and Mariposa Counties.*

M. C. ANDROSS,

*Senator from Toulumne County.*

GEORGE S. EVANS,

*Senator from San Joaquin County.*

BARLOW DYER,

*Senator from Calaveras County.*

S. C. HUTCHINS,

*Senator from Yuba and Sutter Counties.*

C. MACLAY,

*Senator from Santa Clara County.*

T. M. BANVARD,

*Senator from Placer County.*

WILLIAM MINNIS,

*Senator from Yolo and Solano Counties.*

JAMES VAN NESS,

*Senator from San Louis Obispo and Santa Barbara Counties.*

A. COMTE,

*Senator from Sacramento County.*

WILLIAM WIRT PENDEGAST,

*Senator from Lake and Napa Counties.*

JAMES A. DUFFY,

*Senator from Sacramento.*

JAMES H. NEFF,

*Senator from Placer County.*

H. K. TURNER,

*Senator from Sierra County.*

B. D. WILSON,

*Senator from Los Angeles County.*

THOMAS FOWLER,

*Senator from Tulare and Kern Counties.*

JOHN BOGGS,

*Senator from Colusa and Tehama Counties.*

A. J. BETGE,

*Senator from San Francisco County.*

DAVID GOODALE,

*Senator from Contra Costa and Marin Counties.*

THOMAS BECK,

*Senator from Santa Cruz and Monterey Counties.*

Mr. SARGENT: Still another senator, Mr. Tomkins, representing Alameda county, in which Oakland is situated, telegraphs as follows:

SAN FRANCISCO, April 11, 1872.

GENTLEMEN: I am requested to express my opinion to you in reference to Goat Island. I think the use of it ought to be granted to the Central Pacific Railroad Company. It is worthless now. It would thus be made very valuable. Whatever increases

the aggregate national wealth adds to the general prosperity and increases the means for the support of the Government. To retain it as it is, under the pretext that it is wanted for defense, is absurd. If made as strong as Gibraltar it would be of no avail against an enemy outside of the Golden Gate, and one powerful enough to force the way in would put San Francisco under contribution. At once the paradox would be true that for Goat Island to defend San Francisco would be to destroy it. The foolish panic got up in San Francisco appears to me to be confined almost entirely to the owners of property in the south part of the city. I believe that it will soon subside, and that those most active in it will be most ashamed of it afterward. The rest of the State is indirectly interested in the improvement of the island, and so far as I have the means of judging will cordially support you in doing all you can to secure that result. I should not have extended my opinion upon you as a volunteer.

Respectfully and truly, yours,

EDWARD TOMKINS.

Hon. SARGENT, HOUGHTON, and COGHLAN.

The president of the State Agricultural Society telegraphs to me:

SACRAMENTO, March 31, 1872.

Hon. A. A. SARGENT:

The San Francisco opposition to the continental railroad's use of Goat Island is entirely based on individual and local interests, in total disregard of the commercial and agricultural interests of the State and nation.

CHARLES F. REED,

*President of State Agricultural Society.*

General Reddington, a leading citizen of Sacramento, telegraphs as follows:

SACRAMENTO, April 7, 1872.

Hon. A. A. SARGENT:

You are correct on Goat Island; the people are with you; the island is a desert rock; railroads should be allowed to utilize it in the interest of commerce; nothing else can or will be done with it. Public interest demands, and the private interests of a few middle-men should not prevent it.

ALFRED REDDINGTON.

Out of a large number of telegrams from my district giving me the views of business men well known to me, and purporting to speak for large classes of citizens, I read one more from the cultivator of thirty-six thousand acres of wheat, as follows:

SAN FRANCISCO, CALIFORNIA, April 13, 1872.

Sir: I have thirty-six thousand acres of wheat growing in San Joaquin valley, and am in communication with farmers representing at least five hundred thousand acres of cultivated land, and I can say that it is the unanimous wish of all farmers and business men outside of San Francisco that Goat Island should be given to the railroad company for the reason that it will relieve them of an unnecessary tax of at least one dollar per ton upon all goods and product going from or to San Francisco, and will aid the commerce of the country and its connections with foreign commerce, lessening its expenses and increasing its profits even in San Francisco.

JOHN W. MITCHELL.

Hon. A. A. SARGENT.

The motives of Mr. Mitchell in sending his telegram are perhaps explained by the following from one of the interior California papers:

"The efforts of the Pacific mail line of steamers to establish a lucrative trade with China and Japan and the Pacific islands have encountered the most serious obstacles in the vexatious and onerous port charges and transfer charges of San Francisco. Heretofore the custom has been to make as much as possible out of every ship that arrived, without the slightest reference to the effect of such a course

upon the trade of the country. For example, the commissioners of immigration levied a tax on each person landing there; every vessel of one hundred tons burden was charged six dollars per day; vessels of one thousand tons burden, twenty-five dollars per day; and vessels of twenty-five hundred tons burden, fifty dollars per day, for the mere privilege of making fast to a wharf. For unloading goods on the wharves there are additional charges of twenty-five cents per ton, or in cases of goods discharged from ship to lighters, twelve and a half cents per ton. Then there are extra charges for drayage to warehouses, cost of warehousing, drayage back to ship or car, and other incidental expenses, until what with the loss of time and damage to goods by these repeated handlings, we have a total toll of about two dollars per ton upon all merchandise passing through San Francisco.

Now, this system can only be maintained at the cost of the absolute loss of the vast Asiatic commerce which is now within our grasp. To lose this commerce is to inflict an almost irreparable injury on San Francisco herself, and to lessen the profits of the merchants of the nation at large, perhaps from thirty to fifty per cent."

It is a question of life and death to our trade and to the interior of the State. Our miners and farmers in flush times may stand the tolls and hindrances of the present order of things, but it is a grievous burden at any time.

I make no further extracts from the press in the interior to this effect, although I could do so from papers published from one end of the State to the other. I know there is not a unanimous opinion either in or out of San Francisco. But will any candid man say that after the long acquiescence of San Francisco in this project, and its sudden and unexpected change of base, with such powerful indorsements of the project from the interior, my representative limitations, and my firm conviction, long since expressed by word and vote, and still entertained, that this is a measure helpful to national and State commerce and beneficial to San Francisco itself, any one has a right to arraign me in vile terms for supporting it?

The fact that sixty acres of the island are reserved absolutely for military purposes, and the whole to be taken in case of war existing or threatened, and that it is more available for such purposes with a road running to it than without it, would seem to be an effective answer to any objection from a military point of view. But Goat Island has never been deemed of importance in that connection. By the time a hostile force could get by Fort Point, Lime Point, Black Point, and Alcatraz, it would be too late for Goat Island to save San Francisco. In the late rebellion several new points were fortified and the old ones strengthened, while Goat Island remained unfortified. The reservations for military purposes in and around the Bay of San Francisco are enormous and disproportionate, and the clamor of the Alta California, that all of Goat Island must be reserved, is answered by itself in an article which it published some time ago, which I will read:

"*The Military Reservation Business.*—Among the other mistunes against which this city has to struggle in her efforts to build herself up is the military reservation business. San Francisco has

been reserved for military purposes to an extent that is positively stunning. Preparations for defensive warfare have been made on a scale which would be sufficient for the demands of that great and final struggle which Gog and Magog are to bring on the world. If the solicitude of the General Government for the protection of the maiden city by the Golden Gate should be measured by the amount of land which it has laid aside for war purposes, the conclusion could not be resisted that its defense occupies the entire and exclusive attention of the military authorities. Sixteen hundred acres probably of the best land in our suburbs, known as the Presidio reservation, a large semicircular sweep at Point San José, upon the very edge of the town, and all the islands in the bay are considered by a prudential military department to be essential for the repulse of the invader, when he comes upon us with his iron-clads, around either the Cape of Good Hope or Cape Horn.

More land has been taken possession of in and around the city of San Francisco for military purposes than in all the cities of the Atlantic seaboard put together, fronting as they do those nations from which alone positive danger may be apprehended.

We are fortifying here on a gigantic scale, to all appearances for no other purpose but to guard against a hostile movement of Chinese or Japanese junks, for which without any reservation whatever, the monitor Camanche or even an ordinary steam-tug with a Parrot at the bow would be more than a match. In the whole vast expanse of the Pacific we can discern no other possible enemies, and it is needless to say that no very serious trouble may be ever apprehended from them. We hold it to be clear that no matter what shape the future may take, no European nation with which we might happen to come in collision would ever attempt to deal us a blow in a region so distant from natural bases as the Pacific and so entirely destitute of all appliances for the repair of damages in case of defeat or disaster."

This ridicule of the Government for doing what is now contended must be continued, I do not cite to prove the shameless inconsistency of the sheet in question, but that the cry of the need of the whole island for military purposes is raised now to deceive the people of the city and Congress.

I ask pardon of the House for occupying so much time on this question. But the ruffianly proceedings of "hoodlums" at San Francisco, prompted and defended by unprincipled speculators who are seeking to sacrifice the real interests of San Francisco to their own selfish schemes, have made it necessary that I explain with some care my position. I have not been betrayed into anger by the inconsiderate denunciation of well-disposed men, and still less by the vile abuse of knavish sharpers who are seeking to fleece the city by means of subsidies to impossible railroad schemes, or transfer its business to a distance. I deemed it my duty to study carefully and perfect the details of the bill, secure the harbor from damage, and get more intimate connection between San Francisco and the East. I think the bill, as now presented, secures these ends, is for the benefit of the State and the great city, and shall record my vote in its favor.

Mr. COGHLAN said:

Mr. SPEAKER: It has been urged by the gentleman from New York in front of the Chair, [Mr. Cox,] and also by the gentleman from New York who spoke last, [Mr. Wood,] that the State of California is not properly



represented on this question by the members from that State on this floor. I defy either of those gentlemen, or any member of this House, or any opponent of this bill, to show a single tangible objection to the passage of this bill. It is very easy for gentlemen to cry out that this is a land grant or that it is a subsidy. They evidently find it very hard, in the face of the facts of the case, to show that it is either. It is very easy to say that this will injure the city of San Francisco; but if any gentleman on this floor, or anywhere else, can show any reason why the city of San Francisco will not be benefited by this very bill, then I myself will vote against it and do what I can to defeat it.

Every objection which has been raised either in San Francisco or on this floor against this bill, except the false and meaningless cry that we are aiding a railroad, is answered and refuted by the bill itself. No man can truly claim that this is in any sense either a land grant or a subsidy; for in the first place Goat Island is not in any sense public lands in the common acceptance of that term. It cannot be settled upon as a homestead nor entered under preemption laws. It is reserved by the Government for military purposes, and its whole value to the people of the United States depends upon retaining it for that purpose; and if from this bill we derive an additional benefit from it without impairing its usefulness as a defensive position, then the people are that much the gainer. Nor does the Government part with its control over the whole island. This bill grants the use of one half—not the land—but the use of one half so long as the company uses it for railroad purposes exclusively, and with the further proviso that the Government may take possession of the whole island in time of war, or even in anticipation of war.

But even this privilege is in no sense a subsidy or gift to the railroad. The President must appoint three commissioners, who shall act as a court to go upon the ground and hear the evidence, and then decide upon the value of the use of the island; and the company must pay this value to the last cent before they take the benefits of this bill. Therefore, I say it is in no sense a subsidy nor a free gift. Now, I ask in all conscience if this island can be made to serve two great public purposes—a defense to the harbor and also become the western terminus of the whole great system of continental railways—why should it not be used for both purposes. "Because," say gentlemen, "it will injure the harbor of San Francisco if a bridge is made from Oakland to the island."

I want the attention of the gentleman from New York who spoke last to the fact that the president of the Chamber of Commerce of San Francisco, the mayor of San Francisco, and several other prominent citizens addressed a note to the chief engineer of the United States

on that coast, to General B. S. Alexander, United States engineer; Professor George Davidson, United States engineer; Colonel George H. Mendell, United States engineer; Colonel C. S. Stewart, United States engineer; and Captain A. F. Rodgers, United States Coast Survey, all of them gentlemen whose names have heretofore been mentioned in the debates of this House. They asked these engineers the question whether the building of a bridge resting upon piers from Oakland to Goat Island will at all injure the harbor of San Francisco. These engineers, in answer to the inquiries of the opponents of this bill, stated explicitly that a bridge built as proposed in this bill would have no appreciable effect on the harbor at all.

I hold in my hand a paper taken from the San Francisco Bulletin, and published by the opponents of this bill, which states directly and distinctly that it will have no appreciable influence at all on the harbor to build this bridge on piers, as is proposed in this bill. That is my answer to one of the objections.

Now I claim, and the people of San Francisco will yet uphold me in the claim, that by a bridge to Goat Island alone can that city ever become the terminus of the system of roads centering upon the Bay of San Francisco. It was with this view that it has been urged for some years that a bridge should be built to that Island. And I may say without fear of contradiction that many men in San Francisco who to-day are fighting this bill, for reasons which I will presently state, are the very men who up to a few weeks past were in favor of that project.

I say that by no other means, or on no other plan, and in no other way can San Francisco be made the terminus of the various railroads crossing the continent. The engineers say that there is no possible way whereby a bridge can be built across the bay to Hunter's Point except at an expense of \$15,000,000. Now, gentlemen must remember that although San Francisco is a large city, it has not business enough to pay interest on so large a sum of money for so short a span of road. The situation of San Francisco being upon a peninsula, the only hope that we can ever reach it by a short route, or the only one practicable, is by way of Goat Island, which seems almost to have been created for the express purpose of making San Francisco the terminus of the continental railroads.

In this bill it is provided that the company shall receive and convey the passengers, goods, and freight hauled or to be hauled over their road into the business portion of the city of San Francisco free of expense.

The bill also provides that the company shall not use the land for any other than railroad purposes exclusively, and yet a cry is raised that warehouses, and in fact another city is to be built upon the island. That is mere bosh. Any man who knows anything



practically of the building up of towns must be aware that it would be easier to build a city twenty miles from San Francisco than to build one under the shadow of that place, nay, in the very city itself, for Goat Island is, I am informed, within the corporate limits of that city; and this bill gives the power to the city of San Francisco to tax the property of the company as it does other property in its city limits.

Then the bill provides further that there shall be no wharf charges; the company cannot receive one dollar or one cent for wharfage, and this brings me to one of the causes of the opposition to this bill. It comes from the men who own the wharves in San Francisco, and who have been in the habit of levying a heavy tax upon every pound of produce raised in my district and in other parts of the State. These men, who want to lay a burden on every sack of wheat raised by my constituents, are the men who have raised this outcry, calling this a railroad subsidy, and they have succeeded by this cry in getting the people of San Francisco so excited upon this question that they have lost sight of the vast benefits which this bill will confer upon the city as well as upon the State, and are listening to the selfish cries of those who wish still in their greedy exactions upon commerce to sit like an incubus upon the growing prosperity of that young and flourishing city.

It would, Mr. Speaker, be very easy and very pleasant to me to join this now popular, but, as I earnestly believe, baneful movement. But I have faith in the people of my State. A little reflection will show them the utter selfishness of the opposition to this bill. I could not go back there and hold my face to the sun if I could be led by a hope of popular favor to be so base as to cast my vote against what I know will so greatly benefit San Francisco and the State of California.

Another portion of the opposition to this bill comes not from the masses I have named, and not from the respectable portion of the San Francisco press; for though the Bulletin, Chronicle, and some other respectable papers are fighting the bill, they are using the weapons of reason and not of blackguardism to defeat it.

But the opposition I speak of now comes from a paper which has been alluded to in this debate as a great commercial paper; and as near as I can find out from inquiry from those best acquainted with its course, the Alta is, in truth, a great commercial paper, one that can be bought cheaper to do dirtier actions than any other paper in the United States. It was through the influence and at the suggestion of this paper that a gang of roughs were procured, not from among the decent people of my State, but from among the Alta's friends, who probably had a month's leave of absence from the penitentiary, to put forward the unanswerable argument against

this bill of burning in effigy its friends. "The Alta will no doubt say I now speak of the citizens of San Francisco. I do not. I speak of the citizens of San Quinton, who assisted the Alta in that demonstration; and I will now dismiss them by saying that the same crowd that did that burning can probably be hired for thirteen dollars to burn the image of the Saviour of the world for having preached the Sermon on the Mount, and that for fourteen dollars the Alta can be hired to uphold them in the act and to sanctify the deed.

That is one class of the opposition to this bill which I do not intend to try to answer at all, but any opposition endeavoring to defeat the bill by argument I am willing to listen to and to do all I can to make the bill concur with their sentiments, where those ideas are just and practicable. I believe it does now answer every request and every objection asked for or urged when the measure was last before the House. I do not believe the people of California know what this bill is; they have an idea that this bill will allow this company to build a city on the island; I do not believe that they have any idea that the company have to pay for the use of the island; I do not believe they have any idea that the railroad company will be compelled to take their passengers and freight into the business portion of San Francisco, or that no wharf charges can be made by the company.

But again. It is the opinion of engineers—not of the railroad, but those depended upon by the opponents of this bill—that it will be a much cheaper and more practicable way of making San Francisco the terminus of the railroad system to establish ferries from the east side of the bay than to attempt to build bridges. They say to the citizens of San Francisco, in answer to a question propounded by the mayor and others, that—

"We believe it will be preferable to use properly constructed ferry-boats for the present. Looking at the question of economy of transit only, we think that the railroad interests and the commerce of San Francisco will have to be greatly increased before the construction of a bridge across the bay will be justified. For instance, if the cost of the bridge is \$15,000,000, the interest on the cost at seven per cent. per annum will be \$1,050,000, to which must be added the cost of keeping the bridge in order, painting, attending the draw or draws, &c., say \$25,000, making the total annual cost of bridge and its maintenance \$1,075,000.

"Now the cost of keeping up and running a first-class ferry-boat between this city and Oakland, capable of transporting twenty freight cars at a time, would not exceed \$100,000, or at most \$150,000 a year, so that the city or the railroad, as the case may be, looking at the question of expenditure only, had better keep a free ferry between this city and Oakland, consisting, if necessary, of seven ferry-boats, at an annual cost of \$150,000 each, rather than to build and maintain a bridge at an annual cost of \$1,075,000."

This being the case, the whole question is this: shall San Francisco have a ferry which will consume ten minutes of time from shore to shore, or one whose trip shall be made in four minutes? Shall it be a ferry from Oak-

land or a ferry half way to Oakland, that is, from Goat Island? Now, if we do as the engineers do—lay aside the bridge question as not feasible—that is the whole question at issue. Most certainly the ferry from Goat Island is the best for San Francisco.

I have before stated that this bill is not a grant. Gentlemen may get up here and cry, "Oh, you are helping a gigantic corporation!" Well, sir, if in helping a corporation you help the commerce of California and of the United States, if you help thereby to make San Francisco a great commercial city, it seems to me that you should lose sight of the fact that you may be helping a corporation. That cry should not have with any gentleman the weight of a feather in regard to the passage of this bill. I believe that by passing this bill we will be making a great commercial city of San Francisco and be inviting the commerce of China and the Indies to that port; and if something be not done to save the double transhipment of through freight and to get rid of these wharf charges and to protect San Francisco from the class of men who have for years been taking advantage of her necessities, then I believe that some other port upon the Pacific or some other nation will gain the control of the commerce of the East, and California will lose all the benefits of the vast commerce which, with proper and liberal action, must certainly in the future, as in the past, reach the American continent through her portals.

This is a great and important question, one which I ask gentlemen to look at in some other light than that of a mere railroad subsidy, which it certainly is not. I have never voted in this House or raised my voice in favor of any land grant of any kind, and I do not intend to do so. If this were a grant of that character, and this company was not compelled to pay the whole value of this property, or to pay for this right of way, for that is what it amounts to and nothing more, I should be compelled to vote against this bill.

It is simply a proposition to enable this railroad to have a proper terminus in the West; and not only this road, but all roads that may go to that city. No man who knows anything about the business of this road but knows that it must have a terminus near the business portion of the city of San Francisco, and yet not in that part of the city. The vast number of trains which must be made up, the backing and constant motion of dozens of donkey engines at all hours of the day and night, incident to the placing properly of the cars in their respective trains, should teach any man that the heart of a great city is no place for

the working depot of a great railroad; and this island, being only four minutes out of the heart of San Francisco, is certainly the best place for that purpose.

[Here the hammer fell.]

I know that my time is exhausted, Mr. Speaker, but I ask one moment more in which hastily to refer to another class of opponents to this bill. We have been charged with being in favor of it because it is a railroad grant. Let me tell you that I believe the great opposition to this bill, among those who have raised this cry against it, is because of the fact that to-day the Atlantic and Pacific Railroad Company is begging a subsidy to build another railroad. If they can excite the apprehensions of the people of San Francisco that this road is working against their interests, then they hope to get a subsidy from the people of California. And I know that the Atlantic and Pacific Railroad Company, through its agents at San Francisco, is working with all its interest and all its power to raise this cry against the Central Pacific Railroad Company in order that they may succeed in getting a subsidy from my State to the amount of several million dollars. The paid agents of that road are the loudest-mouthed of all the opponents to this bill. But they are spending their time, labor, and money for nothing, for the people of that city will not be long in finding out that the keen agents of that company are trying to turn the anti-subsidy cry against one company into a subsidy cry for a paper railroad to fill the coffers of the Alta and disinterested parties of that ilk.

Mr. Speaker, all my interests in life are centered in the State of California. I have lived there from early boyhood, and as a Californian I am proud of the prosperity and grandeur of San Francisco. No power on earth could make me do one thing to injure her, and, on the other hand, I am willing to stem what seems to be the popular current on this question, because I know it to be to her interest. I know that before many years she will be to the western slope of this continent what New York is to the eastern. She is no longer isolated from the rest of the country, and her energetic and enterprising people will soon see that by a liberal policy toward commerce she can alone hope for the greatness to which her geographical position entitles her. As New York is the queen of the Atlantic, so San Francisco in the near future, guided by this policy, will sit upon her many hills the unquestioned guardian of the Golden Gate, through which must come, and pay her tribute as it passes, the wealth of Asia and the Indies.





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ADDRESS  
OF THE  
HON. CHARLES L. SCOTT,  
OF  
CALIFORNIA,  
TO  
HIS CONSTITUENTS,  
ON THE  
CONSTITUTIONAL RIGHT OF SECESSION.

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WASHINGTON, D. C.  
WILLIAM H. MOORE, PRINTER.  
1861.



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FELLOW-CITIZENS OF CALIFORNIA :

During four year's service in the Congress of the United States, I have studiously abstained from participating in the discussions of questions of a political character. I was induced to pursue this course believing it to be to the interest and to the advantage of our State, which was equally dependent upon all sections of the country, and nothing now but a stern sense of duty compels me to deviate from the rule which has heretofore governed me, and to break a silence which was alone produced by a devotion to California and her welfare.

In the present great crisis, however, I cannot longer remain a quiet and passive observer of the momentous events which are now thronging thick and fast before us, and which are pregnant either with much weal or woe for our beloved Union. It is always embarrassing, certainly disagreeable, to allude to one's self; but this embarrassing and disagreeable necessity devolves upon me, in order to show you the reason of the faith that is in me, and why I have assumed the position which my subsequent remarks will indicate.

Born in the good old Commonwealth of Virginia, my mind was early imbued with the political teachings of Jefferson and Madison, and I became an ardent and sincere admirer and follower of the doctrines of State-rights. Reared in the Jeffersonian school of politics, I left my native State in 1849 for your golden shores, carrying with me the principles and the doctrines which had been inculcated and promulgated by her noble sons.

Amidst all the political changes and vicissitudes of a life in your midst, I have ever rigidly adhered to those principles; and time, instead of impairing my convictions, as regards their soundness, has only strengthened them, and they have indeed been my political chart, guiding and directing me whenever surrounded by doubt.

To my mind, the present difficulties and dangers which now envelops our country, and threatens ruin and destruction, have arisen chiefly from an abandonment of those principles, and has led to the sad grievances which an outraged South is now remonstrating against.

I will not now recapitulate those grievances, for they have been too forcibly presented to the country a thousand times by those immediately interested in their redress. Suffice it to say that they are of such a character as will dissolve this Union unless they are satisfactorily adjusted.



This brings me to the consideration of the impending crisis which now imperils our country. On every side I find conflicting opinions. Some are for war, others are for peace. Despair sits upon the brow of some, defiance and exultation are seen on others. In the public papers of the country, there is as much difference of sentiment expressed, as may be seen in public bodies of political men, or in the private circle of social life. Some papers are of fiercer mood than others. War, and war to the knife, and the knife to the hilt, are the preachings of those that sympathise with the spirit of some orator who has in his "red-hot madness" sounded the war-whoop. Whether these belligerent notes are from the halls of the Senate, or before a corps of organized fanatics, I deeply regret to say, that they have followers who seem to exult in the hope of imbruing their hands in southern blood.

I cannot avoid speaking of the temper and the fury of the passions which rage around us, and seems waiting but for a signal to commence the havoc of a civil war. Before the occurrence of that deplorable event, it may, perhaps, be in season for me to raise my voice to protest against the spirit of war which is abroad in the North, and even more solemnly to protest against the shedding of the blood of our southern brethren. Ambition, fellow-citizens, has its faults. It often commits great offences. Sometimes it is guilty of crimes, but there are but a few instances known in the history of the human family, where some ungrateful monsters, festering in their hearts with the secret fires of consuming hatred to whole classes, and to gratify the deadly spirit of that vile passion, have seized some apparently hopeful occasion to glut their appetites in blood, even of those whose voices had heretofore cheered them in the dark hours of peril, and whose hands had aided and assisted them to greatness and to glory. To that class of men who are now advocating coercion, who would deluge this fair land in a sea of blood, I can only say that they are false to the Constitution, treacherous to the Union, and recreant to the teachings of their fathers. Their thoughts were turned on peace, and when they framed the Constitution of the United States, which I admire in all its parts, their purpose was to do it in a mode which would enable their posterity through all times and changes to preserve peace with each other, if the spirit of evil, of fanaticism, or ambition, should not seize upon them.

They accomplished their task—a great and mighty work—and ages to come, the wise and the good will wonder at the destruction of peace under the fierce war-whoop of the enemies of the South.

Yes, fellow-citizens, I do trust that the wise provisions made by our fathers for peace, to preserve that blessing amongst their posterity may be successful, and harmony and good feeling be once more restored.

My position is, that our fathers so framed the Constitution of the United States, that they intended peace to be preserved under the very circumstances by which we are now surrounded. That it can be done, and ought to be done, that it will be constitutional to do so, and that it will be no less wise for the present and for the fu-

ture; and I will prove by the Constitution, as well as the history of the times in which it was made, what I now assert should be done.

We have not forgotten altogether that we are a revolutionary people; in fact we were born of it, and nurtured in it, and reached our very manhood by its triumphs; and however dull the scenes of that glorious period may seem to us at this remote lapse of time, they were fresh and vivid to our fathers who framed the Constitution.. They never lost sight of its history or its principles.

When the convention met in 1787, they felt the truth to be, that they were not merely the representatives of thirteen States, in their character as States, but they were truly the representatives of a great revolution. They met together as equals, and the delegation from each State cast a single vote. The voice of Delaware was as potential as the voice of Pennsylvania. At an early period of their sittings, two plans for a Constitution were brought forward. One by Mr. Randolph of Virginia, and another by Mr. Pinckney, of South Carolina. That of Mr. Randolph's was in the form of a series of resolutions, setting forth the various principles and powers which should be adopted in the formation of the instrument.

This plan was first discussed and voted upon clause by clause, when that was necessary to obtain the true sense of the body.

The sixth resolution of Mr. Randolph's contained a clause, which bears directly upon the present state of affairs in our country.

It proposed to give to the Federal Government the power to coerce a State.

This involved the high and important question of State sovereignty, and the right of revolution. If it had been adopted, as a government we would have placed ourselves precisely in the attitude of holding the doctrine upon this subject which England held towards us, and we on our part would have denied by that record the very principles we had asserted in our Declaration of Independence.

When that clause came up for consideration, Mr. Madison moved to postpone it, assigning his reason; which motion was unanimously carried.

I will quote what took place upon that occasion, and which will be found in the 2d volume of the Madison Papers, page 761. The notes of Mr. Madison are as follows :

"The last clause of the 6th resolution authorizing an exertion of the forces of the whole against a delinquent *State* came next into consideration.

"Mr. Madison observed, that the more he reflected upon the use of force, the more he doubted the practicability, the justice, and the efficiency of it when applied to people collectively and not individually. An union of the States containing such an ingredient seemed to provide for its own destruction. The use of force against a State would look more like a declaration of war than an infliction of punishment; and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound. He hoped that such a system would be framed as might render this resource unnecessary, and moved that the clause be postponed. This motion was agreed to nem con."

A system was framed, which withheld all such powers from the Federal Government, and reserved to the States all the rights, which they had under our theory of popular principle upon which we had

commenced our revolution. They were as well understood as those of any king in Christendom, was understood by himself and ministers. Nor were these principles left to conjecture. They had been solemnly declared to the world under the most trying and perilous circumstances.

When, therefore, the proposition of Mr. Randolph was brought forward, it was at once perceived ; that it was a contradiction of our true theory of the rights of the people. The convention manifested by its action the determination to maintain that theory, and for that cause the proposition was rejected ; or, in the language of Mr. Madison, "it was neither practicable, just, or efficacious." "It would be self-destructive, and *per-se* a dissolution of all previous compacts."

But I will proceed another step, and see what our public record had been by unanimous concurrence of all parties. We were pledged to the right of revolution, and for this I will briefly refer to the action of our fathers. We will find it in the Declaration of Independence, which declares it to be a right. The following is an extract from that instrument, and occurs in the second clause of the second paragraph, and the rights referred to, are those of life, liberty, and the pursuit of happiness, and is as follows :

"That to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed ; that when any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers, in such form, as to them shall seem most likely to effect their safety and happiness."

Again, that instrument, in another clause of the same paragraph (after adverting to the fact that experience has shown that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed,) declares in these words :

"When a long train of abuses and usurpations, pursuing invariably the same object, evinces to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their security."

This is conclusive as to calling into existence the right of revolution, recognising and establishing it in the most solemn form, and under the most responsible circumstances. It was a right which it became necessary to assert.

The Kings and Emperors of the world denied it. They will always deny it. The Tories of that day denied it. The interest of the powerful, who possess the rule over the thousands, has always interposed its selfish influence to refuse this right to the people. It is the same power which has been in the way for many, very many centuries, of free, enlightened and representative governments.

But from the date of that Declaration of Independence, our ancestors determined that there should, at least, be one government of the earth, which recognized the right of revolution. Step by step they watched this right, and never lost sight of it. They won it by the sword, and they held and cherished it as the most glorious trophy of the victories of the people.

How truthfully they kept their faith, in their covenants for the preservation of this great right, their careful vigilance and wise measures, which followed their triumph, most amply attest. They



had found it a right buried beneath the feet of despots, and they rescued it from its long humiliation, and it was indeed for them, a warlike and a bloody remedy.

In the project of the new theory of our Government, they resolved to trust no Federal agent with a power which would enable it to prevent or deny this right of revolution.

A very brief statement of the prominent points upon this subject, engrafted into the formation of our present Constitution, will conclusively establish this.

It is well known that the theory of the new government was very fully discussed in all the States, and excited profound and universal interest. It was believed by the most enlightened statesmen of that day, that some further provisions were necessary in relation to particular subjects, and more especially; that such restrictive amendments should be made, as would effectually limit the General Government strictly within the exercise of its specified power.

The public feeling and opinions in this regard were so strong, that the whole matter was brought up before the first session of the first Congress in 1789, and the first ten amendments were then adopted, and afterwards ratified, by the States respectively in 1791.

The preamble adopted by Congress to those amendments, passed also under the action of the States as a part of the whole, and forms a very distinct presentment of the causes which led to the legislation of that day. It clearly indicates the popular sentiment which prevailed after the formation of the first set of articles of the Constitution, in relation to the powers which had been granted to the General Government.

Let us see now what this preamble is. It is in these words, viz :

"The conventions of a number of the *States*, having at the *time* of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further *declaratory* and *restrictive* clauses should be added; and as extending the ground of public confidence in the government, will best insure the beneficent end of its institution."

Now, it is worthy of special remark that the ten articles to which this is prefixed, each is either precautionary, restrictive, or prohibitory. The first eight are as much so as the ninth and tenth. But these last are more comprehensive and exclusively precise in their character. They cover every possible thing which the first set of articles contain, and guard against everything which they do not contain. They are expressly so prohibitory that no power is left to the General Government except it has been specifically conferred. To that, and that exclusively it is confined.

They in fact supply a full development to the unanimous act of the Convention, by which they rejected from the Constitution all power whatever to coerce a State. They secure, as they were intended to do, the right of revolution, as a peaceful remedy, or if you do not wish to call it that, you can call it any other name you please, either the right of secession, or a right to re-assume the powers of independent State sovereignty. It was for this, that our ancestors periled their lives and their fortunes in a bloody and protracted war to establish it, and having effected this successfully, they then provided that in all future time the right of revolution,

or secession, or a resumption of independency should be a peaceable remedy, secured to the States respectively, against the dangers of oppression from the greater physical power of the General Government. It was a security of the smaller State against the largest and the greatest number, for these articles of amendment are a perfect index of interpretation to the Constitution. You cannot mistake their guidance; you cannot doubt their meaning.

Let us see how fittingly they agreed with the whole tenor of the spirit of precaution which pervaded the acts of our ancestry at that day.

The first article was a restriction against any interference with religion, the freedom of speech, or of the press, or the right of petition.

The second against the prevention of the people to keep arms.

The third against the right to quarter soldiers in time of peace in private houses without law.

The fourth restrains the licentious issues of warrants against private persons.

The fifth provided further against the deprivation of life, liberty, or property without due process of law.

The sixth protected each citizen in the right of a speedy public trial, the confrontment of the witnesses against him, and the right of compulsory process against those in his favor.

The seventh, against the destruction of the trial by jury.

The eighth, against excessive bail, and fines, and unusual punishments.

Such are the series of restrictions and protections; such the temper of mind, the careful forethought with which our ancestors apprehended, step by step, to the last two articles of those ten amendments, which constitute the crowning measure of their wisdom and their will.

The two last articles (the "ninth and tenth") stand out in high and bold relief—illuminated by the character of those with which they were conjoined. They leave us no room to doubt the restrictive and precautionary purposes of the work of that day.

I come, therefore, without question, to the consideration of those two articles, prepared to understand the mind of the law-givers: and thus, with all the preceding conjunctions of their legislation, the whole character, moral and intellectual, with which they seemed to be invested at the time.

However small these signs are, when taken in connection with those which are more potent, and with facts and plain words, as a whole, they are unmistakeable and conclusive. They cannot be gainsaid, controverted, or successfully answered.

The ninth article is as follows:

"The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people."

By this provision, every reserved right, every power not prohibited to the States, has the same strength; the same identity; the same existence it would have had, as if it had been declared by name.

Truly, this is a fit introduction to stand in juxtaposition, and to

come in aid, as it does, to the next, (the tenth,) the last article passed by Congress.

It is not merely an accidental coincidence, that it stands associated and agreeing with the affinities of all other provisions produced throughout that day's proceedings; but, it also stands associated, agreeing with, and responding to the history of the day. To that rejection in the convention by a unanimous vote of the proposition to give to the Federal Government power to coerce a State—to that condition of the ratification of the Constitution by which Virginia solemnly declared that she held in reserve, whenever the time should come, that the safety and happiness of her people demanded it, the right to reassume the character of a separate and independent government.

The tenth article is as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The power then certainly was not delegated to the United States, nor was the power to prevent or to resist the revolution of a State. Without this the Federal Government could have no such powers.

Nor was the right of revolution or secession, if you please, or re-assumption of separate and independent power prohibited to the States. It remains with them respectively, subject to their exercise, whenever in their respective judgment they should deem it fit and necessary.

It is the very right solemnly instituted by the Declaration of Independence—declared upon at every step of our history, and which Mr. Madison, in that letter of his to Mr. Webster of the 15th May, 1833, declared, was the Constitution *de jure* and *de facto*, and held subject to its direction all other relations between the States and the Federal Government.

I am aware that this letter has been very properly animadverted upon since its production in the Senate of the United States, yet as it comes of a great name, and has been attempted to be perverted lately by a member of that body, (from Tennessee,) in a speech which he recently made there, for the purpose of inflaming the public mind of the North to make war upon the South, I must quote it to the extent it was introduced by him in the Senate. It was probably, (as he, the Senator said,) the very last letter of Mr. Madison's upon that general subject.

It was called forth, I believe, by a letter from Mr. Webster upon the occasion of enclosing to the ex-President the speech (he Webster) had made in reply to Governor Hayne, of South Carolina. The introduction of it at all, by the Senator in his late speech was a blunder. He misinterpreted it to mean, that Mr. Madison was opposed to the idea of the right of a State to judge of the political wrongs and oppressions which may have been or might be inflicted upon it—of the dangers in which it might be placed, and that under such circumstances, it was not entitled to determine the period at which it would withdraw for present redress and future safety from the Union of the States. It was thus intended to use the authority of his (Mr. Madison's) great name, to prove that no accessions of such a right in a State could ever take place under our system.



The league into which it had entered, if it turns out to be evil and destructive, must remain irremediable forever. I mean, however, to show that this representation and interpretation of it is false—utterly false. In the extract of the letter as quoted, Mr. Madison says :

“The Constitution of the United States, being established by a competent authority by that of the Sovereign people of the several States who were parties to it, it remains only to inquire what the Constitution is: and here it speaks for itself. It organizes a government into the usual legislative, executive, and judiciary departments, invests it with *specified powers*; leaving others to the parties to the Constitution. It makes the Government like other Governments, to operate directly on the people; places at its command the needful physical means of executing its powers; and finally proclaims its supremacy, and that of the laws made in pursuance of it over the Constitutions and laws of the States, the powers of the Government being exercised, as in other elective and responsible governments under the control of its constituents (people,) and Legislatures of the States, and *subject to the revolutionary rights of the people in extreme cases.*”

“Such is the Constitution of the United States, *de jure* and *de facto*, and the name, whatever it be, that may be given to it, can make it nothing more or less than what it is.”

This is an unfortunate quotation, for the purposes of the orator, who lately used it to prove, that ours was a central and consolidated Government of despotic powers.

It has been said by a writer, who was familiar with the political passions of ambitious men, and a close observer of their concealed and mysterious motives, that the lowest and most violent demagogues had always turned out to be, when in possession of power, the most bloodthirsty and remorseless tyrants.

In the example of the opinions, however, of one of the first patriarchs of our revolution, no shelter can be secured in which such a character can find a justification for his passion for war. The beginning, the whole text, and the end of the opinion of Mr. Madison, instead of supporting the despotic theory for which it was quoted, enforces directly the contrary. The basis he lays down within the first three lines, is conclusive of the theory he maintained, and of the meaning of every other clause which relates to it. He says that the Constitution of the United States was established “by the Sovereign people of the several States who were parties to it;” not by all as one—as a whole—but by the separate, distinct people of the several States, acting in their respective capacities as Sovereign bodies, apart from and independently each of the other. This is what he means. Whenever he uses the term people, he means it in that constitutional sense in which he has expressed himself. He states with fairness, candor, and precision the frame of the Government, and then concludes the first paragraph by declaring that the whole is—

“Under the control of its constituents, people, and the Legislatures of the States, and *subject to the revolutionary rights of the people in extreme cases.*”

Comment is scarcely necessary. It requires great hardihood of confidence, combined with very obscure and confused perceptions of the law meaning of the plainest words, to enable any man, however violent his hatred for whole classes of men, to assert, without shame and confusion, that Mr. Madison does not in this very last letter, maintain in the most vivid words in which it can be spoken, *the right of revolution.*

In the further development of this subject, it will be seen that he

means by revolutionary right the right of REASSUMPTION by a State of its separate, distinct, and independent existence. You will find that he has recorded it solemnly alongside of his peers, and in the words I have used. But sufficient it is for the present extract to say, there it is in that; it cannot be doubted.

And, as if the spirit of prophecy was upon the aged patriarch, and that through the long future of twenty-seven years he foresaw that some practised demagogue, who had risen by his false arts and charlatan pretences, might attempt to wrest his meaning—after a pause, (enough to pass to a new paragraph) he devotes the whole of it to *reassert that very right*. It is so marked and conspicuous a clause of that extract, that I will take leave to repeat it; it is but three lines. He says:

“Such is the Constitution of the United States, *de jure* and *de facto*; and the name, whatever it be, that may be given to it can make it nothing more or less than what it is.”

You may call it secession, reassumption, revolution. Here it is. *He says: In that Constitution*, it is that which is *not* prohibited to the States, and is among their reserved rights. It is that which likewise formed a part of the engrossed ratification by Virginia, signed by the President of the Convention, and transmitted to Congress.

Such are the points, which naturally follow the first position taken in that letter by Mr. Madison. That the Sovereign people who had relation to the Constitution were the people of the several States, in their separate and independent form only, and that they who ratified it, had the *revolutionary rights* by which they could free themselves from all the abuses, oppressions, and dangers, which might be perpetrated under its broad banner.

He said: *There it was, in that Constitution*—the revolutionary element, or if by any other name no matter—*there it was*, nothing more or less—than what it is, “*de jure* and *de facto*.”

This is beyond the answer of man or demon; it is truth, simply truth vindicating itself—or rather it puts forth its might and prevails.

But I will go a step further in this particular history, and I think I can put this matter at rest forever. I will therefore now turn to a record that is graver than letter writing, and requires profounder thought. I will introduce Mr. Madison in the meridian of his intellectual power, and of his revolutionary fame. It will rejoice his surviving countrymen to know that his solemn acts and opinions of that day, precisely agree with the reading which I have given to the extract of his letter to Mr. Webster. Of the time I speak, he was a member of the Convention of Virginia, which had been assembled to consider the draft of the Constitution framed at Philadelphia, and which was then in the course of submission to the people of the several States, to be ordained and established by them, or rejected *at their will*.

In that enlightened body of great and distinguished men, such bright and particular names as those of Patrick Henry, Madison, Marshall, Randolph, Mason, Monroe, Pendleton, and Wythe, together with a long list of others, scarcely their inferiors in mental power, and every way their equals in personal merit, were to be found. The conflict of discussion passed. It was the struggle of Titanic giants. A deliberate body of gentlemen, so wise, so elo-

quent, of such enlarged experience, so courteous, well tempered and laborious, had rarely (if ever) met together upon the earth. Their last vote when taken upon the Constitution passed in favor of the ratification. In the progress of the discussion, however, the powerful mind of Patrick Henry, aided by George Mason and others, had pressed upon the convention with such force, the leading objections to the draft of the Constitution which had been submitted to them, that it was also then resolved, that certain amendments should be recommended to Congress at its first session under the Constitution. The first motion, however, in order was then made, to appoint a committee to prepare and report a form of ratification. That committee consisted of Governor Randolph, Mr. Nicholas, Mr. Madison, Mr. Marshall, and Mr. Corbin. This was certainly a committee of great strength, as to position, influence, experience, and reputation. It contained the leading advocates of the new scheme of government. It would seem that they unanimously agreed as to the form of the ratification, and that it was acceptable to the entire body.

In that convention there was no thought, when speaking of the ratification by the people of the United States, of anything else being meant but the people of the several States, acting in their capacity as sovereign, distinct, separate, and independent therein.

The committee in their report of the form of the ratification began by saying, "We, the delegates of the people of Virginia;" and wherever the use of the term people occurs, they mean the people of Virginia, or the people of the several States, separately and independently, as the sole parties having any connection whatever with the form of their act, then about to be consummated. The committee speak for Virginia, for the people of Virginia alone.

That form of ratification, as reported by this distinguished committee, and according to the record adopted by the convention without a dissenting voice, was as follows:

"Virginia, to wit:

"We, the Delegates of the people of Virginia, duly elected in pursuance of a recommendation from the General Assembly, and now met in convention, having fully and freely investigated and discussed the proceedings of the Federal Convention, and being prepared as well as the most mature deliberation hath enabled us to decide thereon, do, in the name, and in behalf of the people of Virginia, declare and make known, that the powers granted under the Constitution, being derived from the people of the United States, may be resumed by them whensoever the same shall be perverted to their injury or oppression, and that every power not granted thereby remains with them and *at their will*. That, therefore, no right of any denomination can be cancelled, abridged, restrained, or modified by the Congress, by the Senate or House of Representatives, acting in any capacity, by the President or any department or officer of the United States, except in those instances in which power is given by the Constitution for those purposes, and that among other essential rights, the liberty of conscience, and of the press cannot be cancelled, abridged, restrained, or modified by any authority of the United States. With these impressions, with a solemn appeal to the Searcher of hearts for the purity of our intentions, and under the conviction, that whatsoever imperfections may exist in the Constitution ought rather to be examined in the mode prescribed therein, than to bring the Union into danger by delay, with the hope of obtaining amendments previous to the ratification; we, the said delegates, in the name, and in behalf of the people of Virginia, do by these presents, assent to and ratify the Constitution recommended on the 7th day of September, 1787, by the Federal Convention for the Government of the United States, hereby announcing to all those whom it may concern, that the Constitution is binding upon the said people, according to an authentic copy hereto annexed, in the words following:—"

The language of that "form of ratification" is strikingly significant, and cannot be misunderstood. It shows at that early day, that Mr. Madison was



tenacious of the *right of revolution*, which they thus designated by the name—

*“Of the right of the State to resume all its powers, whensoever the same shall be perverted to their injury or oppression, and that every power not granted thereby remains with them and at their will!”*

At their will! How emphatic the declaration! How strong their determination to keep the *right of revolution*, or any other name by which you please to call it, as a *peaceable remedy*. This was the act of Mr. Madison, as much as if it had been done by him singly.

When he performed it he was under the solemnities of an oath. He and his compeers of that body, were from a great revolution against a despotic, avaricious, and all-grasping power, who was pursuing the colonies for their money and their rights.

Look at that form of ratification. Consider it well. Do you not perceive that the very letter which Mr. Madison wrote to Mr. Webster in 1833 is the *very echo* of the deed of that day? He knew what the constitutional truth was when he said this system of our Government was “*subject to the revolutionary rights of the people.*” He spoke of the Constitution as one who had helped to make it. That such it was, he said: “*De jure and de facto*, and the name, whatever it be, that may be given to it, can make it nothing more or less than what it is.” In the Convention of Virginia he called it the right to resume “*at their will.*” In this *last* letter he calls it a “*revolutionary right.*” He declares it to be in the Constitution. It is, therefore, a peaceful remedy.

Thus the history of Mr. Madison vindicates and discharges him from the contaminating hands that would damage his patriotic fame. It does even more than that. It overthrows the pretences of the despotism which it is attempted at this moment to enforce upon the necks of the Sovereign States of the South.

But, resuming the facts, I will further advert to that form of the ratification by the Convention of Virginia. In that, Mr. Madison, as one of the special committee, embodied, and by his vote, formally declared the principle of *revolutionary right* to exist in a Sovereign State of the Federal Union. It was also supported by the unanimous vote of the Convention. Having been agreed to, it was prepared by the secretary, and signed by the President in behalf of the Convention. The following order was then made: “*Ordered*, That the said ratification be transmitted by the President, in the name of this Convention, to the United States in Congress assembled.”

A duplicate was made, and likewise signed, and deposited in the archives of Virginia.

That ratification could only be taken as a whole, and not in part. Virginia had no master who could dictate to her what she should or should not do. Her rights were her own, and she had the power to reserve them, as she did, “*at her will.*”

It remains to this day, in all its force, unabated of a single degree of her rights, in the archives of the Federal Government.

That form of ratification was accepted, *without objection*, by her sister States.

It could not be objected to. There was no power—no right to do it. It was that or nothing. It was the sole act of Virginia, and could not be changed. One part of it was as much the act, the sovereign will of Virginia, as the other. She would not ratify except in that particular form, with the inclusion of her own reserved and paramount rights. She acted upon the principle that each State had the same right to protect its own powers—its own existence—as the Government of the United States to protect itself within the purview of its delegated powers. By this act, as well as by subsequent amendments, the reserved powers of the States were secured against the arbitrary power of the Federal Government. The latter, therefore, in attempting to grasp it by physical force, would be guilty of usurpation, and

by that single act would dissolve the compact. I mean, fellow-citizens, that it would put an end to the Union forever.

Summing up then, this act of Virginia ; its acceptance at the time by her sister States ; the fact, that upon the ratification of that old and honored commonwealth, depended the question of the final adoption of the Constitution, it is not possible to resist the truth of the principle, the law of the fact, and the fact itself, that the form and substance of all which Virginia had thus enacted, was binding upon the several States, and upon the Government of the United States. The reasons for this conclusion, specifying out of the official record and history of the times, and by no means the invention of the logical powers of any man, no matter what they may be, come as nearly up to the standard of mathematical demonstration, as is possible in the nature of human things, and the difference between the exact sciences and the most perfect logical analysis. I do not mean by this to claim the honor of coming so nearly up to that exact standard by my humble process of reasoning. Not at all. I mean by what I say, simply, that when you relate the facts as they are, there stands the truth ; it is purely self-evident. The statement is the argument. You can reason no further ; it is conviction ; it is as the result of your own identity which you prove by stating the facts, as being and having motion, uniting the physical and the moral ; the same frame ; the same consciousness ; the same memory ; joining the past and the present imperishably forever.

But, fellow-citizens, it is proper I should add another proof of the potency of the further demonstration made by the convention of Virginia. With this Mr. Madison is likewise identified.

It was indeed plainly designed as a duplicate banner (to aid that which I have just reviewed) against the possible right of usurpation, under any constructive pretence whatever by the Federal Government. Simultaneously with the appointment of the committee in the Virginia convention to report the form of the ratification, there was also a committee appointed to prepare and report amendments to the Constitution, to be submitted to Congress at its first session thereafter. At the head of that committee was George Wythe. It was composed of twenty members. Among them were Patrick Henry, Governor Randolph, George Mason, John Marshall, Mr. Madison, Mr. Monroe, Mr. Nicholas, and Mr. Grayson. The rest were men of note, talent, patriotism, and equally high character.

Mr. Wythe reported the first twenty articles as constituting a Bill of Rights, and also twenty other articles of amendments having a general affinity with the former, and intended to relieve certain defects in the Constitution.

A single example from each will be sufficient for the purpose of illustration, and to complete the history of this great and imposing record. The third article in the Bill of Rights is in these words :

"3rd. That Government ought to be instituted for the common benefit, protection and *security of the people*; and that the doctrine of *non resistance* against *arbitrary power* and *oppression* is absurd, slavish, and destructive to the good and happiness of mankind."

All the amendments proposed in the Bill of Rights, including this, passed unanimously. Mr. Madison assisted to frame it, and supported the whole. It agrees with his principles of revolutionary right.

I shall now quote an article from the amendments, which were distinct from the Bill of Rights. They also passed unanimously. The first article provides :

"That each State in the Union shall respectively retain every power, jurisdiction, and right, which is not by this Constitution delegated to the Congress of the United States, or to the Departments of the Federal Government."

Both of these plans of amendment were sent to Congress. They furnish the entire provisions of the ten amendments adopted at the first session of the first Congress, submitted then to the States, and ratified by them.

The article I have just quoted forms the substance of the 10th amendment.

I have quoted the third article of the Bill of Rights, and the first of the class of amendments. It will be seen that they are not merely germane to, but that they are as if they were part and parcel of the very same material with that remarkable, just, cautious, and wise act called "*the form of the ratification by the Convention of Virginia.*"

This whole history, which I have thus brought before you, is the transcript of the ablest minds then in America. That which was intended by them was accomplished, as far as was really necessary for honest men, and men not individually ambitious, covetous, or fanatical. It was enough to preserve the peace of this country for a thousand years. Yes, for all future time that human institutions might remain upon earth. The forms of law, and the rights of the weak against the strong, as far as paper ramparts could be constructed, were eminently sufficient.

Step by step, I think, fellow-citizens, I have endeavored to demonstrate to you the constitutional rights which the South claims. There stands before you the RIGHT OF REVOLUTION, secession if you please, or re-assumption, or by any other name, under which our fathers of '76 claimed and exercised it, and which they have made a *reserved* and a *peaceful* right.

There it is, proclaimed by Mr. Madison to be *in the Constitution*—solemnly embodied by the Convention of Virginia, *we have their form of ratification*—solemnly asserted by that assembly again, and placed at the very head of their Bill of Rights which was sent to Congress—solemnly recognised by that body and protected by the *ninth* and *tenth* amendments of the Constitution ratified by the States.

There stands that right—with all the seals and testimonies—a peaceful right and intended to be so. A right to enable those who are wronged to separate from those who hate them. Will you, fellow citizens, violate that right? Will you by any act on your part aid in permitting that right to be violated? Wherefore or for why will you do it, or aid in its being done? You will not pretend not to clearly understand that the *right* is the Constitution. Do you pretend not to know that our fathers had a very gracious kindness and fraternal embrace for the men of the South who held negroes in slavery? Do you pretend to deny that they solemnly covenanted that they were property, and that it should be protected? Do you pretend to believe that if our fathers had been in 1787 as we are now, that the slave States would ever have trusted them? For shame—for very shame—for the sake of the memory of our fathers, for the sake of the solemn covenants into which they entered, it is to be hoped that the North will turn back its aggressive steps, and shed not the blood of its southern brethren, and if they are determined on so fratricidal an act, that you will not by any agency of yours give sanction thereto. Let the North beware of the wrath of that Almighty God who rules now upon the earth as he did in the armies of Israel; as he did in our struggle during the days of the Revolution which brought us into existence as a nation.

If they do not, HE will turn them back from their unholy conquests, humbled and defeated with the mark of Cain upon their foreheads, with the finger of scorn and contempt pointed at them from the veriest confines of civilization, and their names handed down to posterity with obloquy forever and ever.

Finally, fellow citizens, in relation to this great conservative question of peaceful secession or re-assumption, or by whatever other name it may be called, I have a few words only to add. It was unquestionably intended by our ancestors to be a peaceful remedy. It is eminently practicable; it is fitted to our peculiar system of government. If mistakes should occur in the exercise of the right, they might be peaceful, and no fierce passions



need ever be excited by it; but that the hope, I may say the probability, of reconstruction could be safely relied upon.

I have said it was suited to our system especially, because it is a remedy for a single State in a Federal Union, where the object should be to preserve the peace not only for the sake of humanity, but as the only mode of inviting and of insuring future adjustment. The old adage is, if you keep the peace for the present you will always have peace. I agree that it is not a remedy against wrongs suited to a monarchy, where not a single attribute of sovereignty is allowed to presume to reside in the people.

But the basis of our whole system rests, among other things, upon the rights of distinct Sovereignities which may be subjected to wrongs. In establishing a set of political relations between them, it was absolutely necessary, therefore, that each should retain the sovereign power of judging when their safety and happiness should require them to withdraw from a compact, which they considered to have been violated through a long train of unvarying circumstances, tending to their final subjugation. No different tribunal was attempted to be substituted, because in the very nature of the sovereignty of a people they retained the right of self-preservation.

If they do not, they ceased to be sovereign. Accordingly, we find our fathers understood the practical of this theory. The States provided for its security, by their acceptance and concurrent recognition of the *form of the ratification* by Virginia, and by the *ninth* and *tenth* amendments,

I may here very properly close this part of the subject of my remarks, by quoting very briefly from that able report of Mr. Madison's made in the Virginia Legislature, on the resolutions of Virginia, and then to others which were referred to the committee of which he was chairman. They related to the general principles of the construction of the Constitution, and especially as to the limitation of the powers of the Federal Government.

It will be remembered, that this patriarchal statesman entered the Federal Convention with a decided leaning towards some of the views of General Hamilton. Their personal relations were of the kindest character. But still there was a conservative element of republican simplicity, and republican faith, in the opinions of Mr. Madison, which found no place with his distinguished associate. In the preparation for the draft of the Constitution they both bore a conspicuous part. General Hamilton's ardor and zeal for a very strong government were unquestionably materially tempered down by the milder counsels of his friend.

Under his influence alone it is probable, that a frame of Federal Government was devised of sufficient democratic ingredients to obtain a final ratification. His talents, as well as his personal relations with some very distinguished men of that body, who were for a much more aristocratic organization, enabled him to shape the system as we find it in the first set of articles. I do not mean, in saying this, to detract one single iota from the distinguished merit of others. But I wish to assign to Mr. Madison his true position then, as well as what it was, in all that followed, because it has material weight in the opinions he was found to entertain within a few years after, 1787.

With the Constitution, such as it is, in the first set of articles, Mr. Madison may be said to have entered the Convention in Virginia. It is a singular feature in the history of that day, that that Assembly, as the representative of the people of a single State, had never been excelled, scarcely excelled in point of talent by any which had ever met in America. It was there, in the midst of the most profound, and searching discussions, conducted by men who were equal to any debates in the world, that it is said Mr. Madison first adopted the idea, that the strict limitations were necessary to be placed upon the powers of the Federal Government.

This advance in his opinions grew out of the profound and enlightened investigations of that body. It was, therefore, finally, that he most fully and zealously entered into the form of the ratifications by Virginia, the Bill of Rights, and the twenty articles of the amendments.

At the close of that service, he went into Congress. During this period, his and General Hamilton's opinions began to separate them somewhat, and at the time when he went into the Legislature of Virginia, his alliance with Mr. Jefferson had become more and more intimate; and he stood, in that hour, singular enough, as the great, the ascendant antagonist of his former friend. Each of them led opposite lines of public opinion. He was the active representative of State-rights; General Hamilton of consolidated nationality, of a great centralizing power.

I might now well quote the whole report of Mr. Madison, but with this statement of the case, and the antecedents, I will simply take leave respectfully to recommend to the political actors of America, to read it with profound attention, *at this particular* moment. Many of them are familiar with the incidents I have detailed. They occurred at a great epoch in the history of this country, when Mr. Jefferson had projected the resistance against the late judicial construction of the Constitution, tending to enlarge its powers—when he had written the Kentucky resolutions—enlisted Mr. Madison, and other noted able Virginians in the cause of State-rights and strict limitations, according to the letter and spirit of the Constitution. It is now, however, even a greater epoch than that was. The men who are soon to come into power, even others for aught I know, are about to initiate a much more portentous epoch than that to which I have adverted. They are about, it is said, not to widen and spread out a little the powers of this Federal Government, but at one bold and abrupt stride, by one rude blow, to break down to the very earth the ramparts of the Constitution, and to make this a great CENTRAL DESPOTISM, prepared to make war, and actually to make war upon Sovereign States for daring to exercise the right reserved to them by the Constitution in order to their self-preservation.

It is at such an epoch, so great a crisis, that I bring to your attention the report of Mr. Madison upon those Virginia and Kentucky resolutions. I will not inflict upon you its entire reading. It was triumphant then, and may God grant that it shall be triumphant now—help to preserve peace, and to preserve us from political madness.

I beg leave to say, in the words of another, that Mr. Madison's report successfully maintained, among other things, that the people of the States acting in their sovereign capacity have the right "*to decide in the last resort whether the compact made by them be violated.*" (Elliott's Debates, vol. 4, page 358.)

He also shows conclusively that without it, what would be the effect if the right of the States to interfere to protect themselves did not exist. In relation to this Mr. Madison uses the following language:

"There would be an end of all relief from usurped powers, and a direct subversion of the rights specified or recognized, under all the State Constitutions, as well as a plain denial of the fundamental principle on which our independence itself was declared." (Elliott's Debates, vol. 4, page 359.)

And further, he says: "That the ultimate right of the parties to the Constitution to judge whether the compact has been dangerously violated, must extend to the violation of one delegated authority, as well as another, by the judiciary, as well as by the executive and legislative." (Elliott's Debates, vol. 4, p. 359.)

I think, fellow-citizens, after reading the report of that great and good man, there can scarcely be found a demagogue, a madman even in his "red hot madness," or a political charlatan, who will have the bare-faced hardihood, or fearless temerity, to assert that this Federal Government, though it cannot coerce a State, can make war upon it by stealth and by strategy, under the false pretences of executing laws which have no longer force, of

holding property to which the title has ceased by the laws of nations, or to recover that property when the only and the simple question that is between the parties is, what is the compensation that the one should make to the other.

War under such circumstances made by the greater against the lesser power, would not only be in violation of the Constitution of the United States—a violation of the law of nations—but still a more heinous offence, a violation of the great LAW OF GOD.

The celebrated Madame Roland, on her way to the guillotine, exclaimed “Oh! Liberty, what crimes are perpetrated in thy name.” The Goths and Vandals of this day—the Red Republicans, with that foreigner, Carl Shulz, for their leader, and three thousand Protestant clergymen of New England, have inaugurated a new crusade. The Constitution is to fall before it—slavery is to go down. They are to put their feet upon the necks of men who have been masters. Their cities and all their dwellings are to be burnt to ashes. Their fields are to be made desolate. Their women and children are to be butchered, and for daring to prepare to resist this, to save their country—their fathers—their husbands, and brothers are to be held guilty. They are to have no more State, a Sovereign State forever. It is to be but a myth, a mere myth—a thing not to be found, invisible, intangible, nowhere, having no identity: while its government, its legislators, its citizens, shall be hunted down as individuals by war, in order to execute the laws of the United States which have already ceased to exist in its midst and borders.

In the language of Madame Roland, and more than that, Oh, Liberty! Oh, Conscience! Oh, most tender Conscience! Oh, Christianity! Thou Heaven-descended messenger of peace, what crimes will be committed in thy name to satisfy the cravings of unhallowed hate and ambition, inflamed by the breath of fanaticism, through a series of more than twenty years.

Ah, fellow-citizens, in the fatal hour in which they strike the first blow of battle, they will and must be doomed to meet a united South, who will draw then the sword and throw away the scabbard. It will turn back the tide of war as did the revolution of France the hosts of the league of Silnitz, and the hosts of the league of the enraged fanatics who hovered in their wake. They (the North) will then learn too late the instructive lesson, that a people in revolution, fighting for their wives and their children, their kindred, their rights, their altars, their firesides, their all, are invincible, invincible forever.

In conclusion, should it be asked why this lengthy argument, why this continual allusion to Virginia, and to Virginia's sons, from a Democrat representing California's interests, I would say that the argument has ever been the very corner-stone and foundation of my political creed, and circumstances are now testing their strength and truth. They were deeply impressed upon me in the formation of my political opinions when entering into manhood, and I little dreamed then, that the day was not far distant when their theory would be, or were to be, so practically and fearfully tested.

In placing this address before you I abstain from offering any suggestion as to the course California should, as a sovereign State, pursue at this most critical juncture, further than, that the principles referred to in the foregoing apply with equal force to her (as well as to other States of the Union) whenever her people may in their sovereign capacity deem it wise, judicious, expedient, or necessary, to resume the powers which they delegated to the Federal Government. The patriotism and intelligence in your midst is a full guarantee that you will do no wrong, and never submit to it from this Government or any power in Christendom.

Respectfully, your Fellow-Citizen,

C. L. SCOTT.







REMARKS  
OF  
HON. CHARLES L. SCOTT,  
OF CALIFORNIA,  
IN THE  
HOUSE OF REPRESENTATIVES  
OF THE  
UNITED STATES,  
DURING THE FIRST AND SECOND SESSIONS  
OF THE  
THIRTY-FIFTH CONGRESS.

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WASHINGTON:  
WILLIAM H. MOORE, PRINTER.

1859.



1887

THE CHURCHES OF SCOTLAND

OF SCOTLAND

HOUSE OF REPRESENTATIVES

OF SCOTLAND

HOUSE OF COMMONS

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FIRST SESSION.

PACIFIC RAILROAD.

The House being in the "Committee of the Whole on the State of the Union," Mr. Scott made the following remarks in support of Mr. Phelps' amendment for the appointment of a Select Committee of thirteen, to be appointed by the Speaker, on the Pacific Railroad.—[See Cong. Globe; page 301 and 302—1st session of 35th Congress.]

Mr. SCOTT. I cannot permit the vote to be taken without saying a few words in favor of the very important amendment submitted by the gentleman of Missouri, [Mr. PHELPS.] I come from a portion of this Union which feels a sincere, a deep, and an abiding interest in this question of a Pacific railroad. It has, in fact, been the idol of their hearts for a long while. The remarks made by the introducer of the amendment are correct; and I do not wish to see this all-important, all-absorbing, dearest object of every citizen of the Pacific slope referred to a committee which may possibly be overrun with other business, and unable to give it the attention which it deserves.

This is no ordinary question. We find that already the officers sent out by this Government have made surveys after surveys, which will occupy ten volumes. Maps upon maps fill these reports. Mr. Stevens, Mr. Gunnison, and many others, have marked out routes and submitted reports, and all these, I honestly believe, ought to have a fair, candid, and thorough investigation. We of the Pacific coast only ask justice from the Government. We are separated from you by a distance of six thousand miles. It takes us now some three or four weeks to reach here. I ask, then, loving you with that feeling which is deep in the bosom of every patriot, that, if this measure be constitutional, as the President believes it is, and the Representatives here are in favor of it, it shall not be put down by referring it to a committee that possibly may be so absorbed by other duties as not to give it the attention which it requires. I, as a representative of that State which is now looking with anxiety and solicitude to the action of this distinguished body upon this subject, ask and entreat you to vote for it, and I ask you, in the name of justice, in the name of right, and in the name of that rising and progressive country, to give us justice, and to give us an investigation, and we are willing to stand or fall upon the merits of the question.

STEAMBOAT PASSENGER BILL.

The House being in session on the 10th of February, 1858, House bill No. 45 being the order of the day, Mr. Scott delivered a speech on the "Steamboat Passenger Bill," as will be seen on pages 653, 654, 655 and 656 of the Cong. Globe for the 35th Congress, 1st session, which speech has been widely circulated. The above subject being under debate, Mr. Scott made the following reply to Hon. HORACE H. CLARK, of New York.—[See page 661 of Cong. Globe.]

Mr. SCOTT. I wish to call the gentleman's attention to the section now under consideration, and if I state it incorrectly, I desire to be corrected. The gentleman is aware that nearly every steamer which leaves New York for Aspinwall carries from five to six hundred passengers, and we find that each one of these steamers is provided with but six life-boats. We find that in the case of the Central America, with six hundred passengers, there were but six boats, capable of holding, in all, one hundred and twenty-five persons.

Now, sir, the provision to which the gentleman from New York refers has been very carefully calculated and very thoroughly estimated. It compels each steamer to carry on board a sufficient number of boats to take off her passengers, and that the seat of each passenger shall be numbered in the boat, the same as it would be at the dinner table in the cabin. Then how can you get at the number of boats required? You can only get at it by the number of tons. You can only say that a vessel—such, for instance, as the *Star of the West*—of two thousand tons, sailing from New York, shall only carry three hundred passengers, and shall have boats enough to take away these passengers. That is the proposition we make. We say that such a vessel as the *Sonora*, running from New Orleans to Aspinwall, of three thousand tons and upwards, shall only carry four hundred and fifty passengers, and shall have twelve boats, sufficient to save their lives in case of fire or shipwreck.

Now, sir, I tell the gentleman that whether this bill strikes down \$10,000,000 of the property of the people of the city of New York or not, the lives of four hundred Californians are dearer to me than all the property it may affect.

#### LAND OFFICES IN CALIFORNIA.

On the 27th of March, the House being in session, Mr. SCOTT moved to call up the Senate bill to create additional land offices in California, when the following debate and result ensued.—[See Cong. Globe, page 1392.]

Mr. SCOTT. I ask the consent of the House to call up the bill from the Senate to create additional land districts in the State of California, and for other purposes. The request was made this morning by the chairman of the Committee on Public Lands, and was then objected to by the gentleman from Ohio, [Mr. GIDINGS.] I have since had a conference with that gentleman, and he has kindly consented to withdraw his objection. This, sir, is a matter of much importance to my State, and, as it is a matter in which I may be supposed to have some personal interest, I ask that the House will hear a statement from the gentleman from Alabama, [Mr. COBB.]

Mr. WRIGHT, of Georgia. I object to this bill being taken up, for the reason that there are still many gentlemen who desire to speak on the Kansas question, and it is injustice to them to have the time of the House taken up with other matters.

Mr. SCOTT. I desire to make a speech about Kansas myself, and if the gentleman from Georgia wishes to make a speech, I will give way.

Mr. WRIGHT, of Georgia. I do not wish to make a speech myself, but there are others who do.

The SPEAKER. Does the gentleman from California propose to put the bill on its passage, or have it referred?

Mr. COBB. It is proposed to put it on its passage. If the House will listen to me for three minutes, they will have no objection.

Mr. WRIGHT, of Georgia. I will withdraw my objection.

The bill was taken from the Speaker's table, received its several readings, and was passed.

Mr. SCOTT moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### KEEPING OF THE CALIFORNIA ARCHIVES.

On the 10th of May, 1858, the House having under consideration, bill 312, "Keeping of the California Archives," the following debate and action was had thereon.—[See Cong. Globe, page 2037—and which bill subsequently passed.]

An act (No. 312) to provide for the collection and safe-keeping of public archives in the State of California was next taken from the Speaker's table, and read a first and second time.

Mr. SCOTT. I move to put that bill on its passage.

The bill was read *in extenso*.

Mr. QUITMAN. I have no doubt there is a necessity for some means to be provided for the preservation of those records. This bill, however, provides such a multitude of penalties, and goes so much into detail, that I prefer to have it examined by the Judiciary Committee; and I therefore move that it be referred to that committee.

Mr. SCOTT. It is the first time I have heard the bill read, and it strikes me to be merely a penal statute providing certain punishments for certain crimes in reference to meddling improperly with the public records of California. Even if I were fully posted on the matter, and wished to defend the bill, I am too unwell to do it. If the gentleman from Mississippi, or any other gentleman, thinks that it is not a proper bill, and ought to be looked into, I will not object to its reference; but on listening to the bill, I do not see anything objectionable in it. If the gentleman will point out anything objectionable to



it, I am willing to have it referred to the Committee on the Judiciary. The late hour of the session is the only thing which presses action on the bill now.

Mr. QUITMAN. Mr. Speaker, of course with the first reading of the bill I cannot form a perfect idea of its operation in respect to all the cases provided for. There is a single feature which struck me as demanding the attention of this House, or at least of the Committee on the Judiciary. That feature of the bill is the power given under the circumstances to enter houses and make searches for papers. I do not think that that provision is well guarded, and it may be that under it authority may be given to search into the private papers of private individuals. There was some provision made for the preservation of the records of my own State at the time she was changing from a Territory to a State, and I have no objection to a proper provision for California. Nor have I any objection to the section of the bill which provides that in certain cases where the original cannot be furnished, a copy may be put in evidence. But this thing requires an examination. I am unwilling to vote on the subject until I have examined it.

Mr. SCOTT. I accede to the gentleman's proposition, and agree that the bill shall be referred to the Committee on the Judiciary.

The question was taken, and the motion was agreed to.

#### CALIFORNIA PRIVATE LAND CLAIMS.

On the same day, House bill No. 313, "To ascertain and settle the Private Land Claims of California," was on motion of Mr. SCOTT taken up and passed.—[See Cong. Globe, page 2037.]

The next bill taken from the Speaker's table was an act (S. No. 315) to amend an act entitled "An act to ascertain and settle the private land claims in the State of California," passed March 3, 1857.

The bill was read a first and second time.

Mr. SCOTT. I ask that that bill be put on its passage.

The bill was read *in extenso*, and was then ordered to be read a third time; it was accordingly read a third time, and passed.

#### CALIFORNIA LAND TITLES.

On the same day, on motion of Mr. SCOTT, "An act No. 314 for the prevention and punishment of fraud in land titles in California," was taken from the Speaker's table, read a first and second time, referred to the Committee on the Judiciary, and subsequently passed.—[See Globe; page 2,037.]

An act (No. 314) for the prevention and punishment of frauds in land titles in California, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

On May the 26th, 1858, the House being in the Committee of the Whole, and having under consideration the "Naval appropriation bill," the following debate ensued between Hon. Geo. Letcher of Va., and Mr. Scott.—[See evening Globe, page 2,414.]

Mr. LETCHER. Here are sundry appropriations for Mare Island, California; and I would inquire of the gentleman from California whether that island is a part of the property which is now the subject of litigation and controversy? If it is, then it seems to me that the Government ought to make no further appropriation until that question as to the title is settled, so that we may know whether or not we are making improvements upon our own land.

Mr. SCOTT. In answer to the inquiry of my friend from Virginia, I will say that the title to Mare Island is vested in the United States. It was, I think, purchased from M. Vallejo in 1853. It is not a matter of controversy, and the Government has a clear and unquestionable title to the land and the improvements upon it.

Mr. WINSLOW. I move to insert the following:

And it is hereby provided that the compensation of the watchman employed at the United States Observatory and hydrographical office shall be the same as that paid to the several watchmen employed in the Executive Departments of the Government.

The appropriation for Mare Island subsequently passed.

#### FEES TO MARSHALS, ETC., IN CALIFORNIA.

The House being in session on June 8th, 1858, Mr. SCOTT moved that House bill No. 55, "fees to Marshals" etc. in California be brought up, when the following debate and action occurred.—[See Cong. Globe, 2,804.]

Mr. SCOTT. The gentleman from North Carolina [Mr. CRAIGE] proposed yesterday to report a bill from the Committee on the Judiciary to regulate the fees and costs to be allowed marshals, district attorneys, clerks of courts, jurors, and witnesses in the State of California, and the Territories of Oregon and Washington. I ask the courtesy of the

House to allow me a moment to make a remark in regard to it. On the 10th of January last, I introduced that bill, which was referred to the Committee on the Judiciary; but the time of that committee was so much occupied in the Watrous investigation that they were unable to report it. In 1853, Congress passed an act allowing fees to the district attorneys, marshals, jurors, &c., in the State of California, at the rate of one hundred per cent. over the fees allowed in the Atlantic States, up to 1855, and fifty per cent. between 1855 and 1857. Now, I have in my possession a letter from the marshal of the district, in which he tells me that he has lost \$1,000 since he has been in that position. He is only allowed six cents per mile for traveling. Every one knows that there are no railroads in California, and that traveling has to be done with horses. The jurors are allowed but \$1.50 a day, and five cents per mile; which is totally inadequate. The bill has received the unanimous sanction of the Committee on the Judiciary, and I hope it will be passed.

Mr. CRAIGE, of North Carolina, then, by unanimous consent, reported back, from the Committee on the Judiciary, House bill (No. 55) to regulate the fees and costs to be allowed to marshals, district attorneys, clerks of courts, jurors, and witnesses, in the State of California and the Territories of Oregon and Washington, with an amendment in the nature of a substitute.

The substitute was read, as follows:

That in the State of California, and in the Territories of Oregon and Washington, officers, jurors, and witnesses, shall be allowed fifty per cent. increase on the fees and compensation allowed by the act approved February 26, 1853, entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the district and circuit courts of the United States, and for other purposes." *Provided*, That the foregoing shall take effect from and after the 6th of February, 1857, when the special provision of said act for California and Oregon expire.

Mr. CRAWFORD. I desire to know whether the Government pays the fees?

Mr. CRAIGE, of North Carolina. They will be paid precisely as they are paid in all other cases.

Mr. CRAWFORD. I have no objection to it if it comes under the general rule.

Mr. CRAIGE, of North Carolina. The only difference is as to the amount.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. CRAIGE, of N. Carolina, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### DEFICIENCY BILL.

Mr. SHERMAN, of Ohio. I move to strike out the following:

"For surveying the public lands and private land claims in California, including office expenses incident to the survey of claims, and to be disbursed at the rates prescribed by law for the different kinds of work, being the amount of surveying liabilities incurred by the surveyor general during the fiscal year ending 30th June, 1857, over and above that authorized under the appropriation of \$50,000 for that period, \$220,000."

Mr. Chairman, I have endeavored to find out the purpose of this clause.

Mr. LETCHER. There has been a document printed on the subject for months.

Mr. SHERMAN, of Ohio. Congress appropriated \$50,000 for this purpose, and the officers of the Government in California, without authority of law, have expended \$220,000. Where is the law to sanction such a proceeding? It is sufficient for me, when I am called on to vote, to know that this expenditure has no sanction of law; and I hope it will be stricken out. It is a bad precedent to set to authorize the proceeding of a subordinate officer who has involved the Government to that large amount.

Mr. SCOTT. Mr. Chairman, I will state to the gentleman from Ohio, and the House, the cause of this deficiency. By reference to the report of congressional proceedings, it will be perceived that the Thirty-second and Thirty-third Congresses made liberal appropriations for the survey of public lands in California, amounting to two or three hundred thousand dollars. The Thirty-fourth Congress cut down these appropriations to \$50,000. At that time, the surveyor general of California had made his estimates relative to the surveys of the lands in that State; he had thrown into the field his corps of engineers, and the lands were surveyed. He had no intimation whatever that Congress was going to act in this manner. Previous, I say, to the cutting down of the amount, he had put his men in the field, and they had gone to work. They have performed the work for the Federal Government in good faith, to pay for which this appropriation is asked. They have been kept out of it for one, and, I think, for two years. They have been kept out of this \$220,000, which had been regularly expended, and they have been compelled to pay for money the ruinous rate of two per cent. a month, for money expended in the service of the Government. The surveyor general had to pay out his own salary, in order



to carry on the surveys of the public land. I am willing myself to confine Federal officers to the strict letter of the law; but gentlemen should recollect the benefits which have accrued to the Federal Government in the survey of these lands. Over twenty-three million acres have been surveyed. These have been run into townships and sections, and half and quarter sections. A great many of them have been entered, and, by proclamation, four or five million acres are to be sold in May, next, which will bring into the Treasury as many million dollars.

In the limits of that State there are one hundred and twenty million acres of land, all of which, except four or five million, is public land; and it has become necessary, in the adjustment of land claims there, to have the private land claims separated from the public land. Now, sir, we would have had to wait five years to have done that which the surveyor general has accomplished in six months; and this \$220,000 would have been expended, and much more, in those five years. I say that while the gentleman from Ohio argues for holding officers to a strict accountability, and while there may be some truth and justice in that, yet there are exceptions to all rules, and especially so far as the State of California is concerned. If this were to happen in one of the Atlantic States, where early and reliable information could be had of the action of Congress, instead of in this far-distant State, to which it takes a month to go, the matter might come fairly under his rule. Then, taking into consideration the past legislation of this country; that these surveys have been of great benefit to the country; that this money is justly due; and that these men have had it withheld from them for eighteen months, I think justice demands that we should pass this section of the bill, which appropriates this \$220,000.

Mr. STANTON. I move to amend the amendment by diminishing the appropriation \$200,000.

Mr. Chairman, this amendment presents a good illustration of the manner in which this Government is carried on. The constitution contemplates that there shall be no expense incurred and no money expended, except by the authority of Congress. The only use that Congress is to this Government is to act as a check to the executive department; to paralyze its arm and withhold the funds necessary in a case of practical usurpation of power on the part of the executive branch. Here is a case where Congress appropriated \$50,000 for the accomplishment of a particular work. Under this authority, the Executive has gone on and expended \$270,000. The question is, then, whether Congress can recognize an authority in the Executive or any of his subordinates to spend five dollars for every dollar which Congress has authorized to be expended.

I wish it to be remembered on this side of the House, that, after this appropriation has been voted, we are to be estopped from arraigning this Administration for extravagance in its expenditures of the public money; we are to be estopped because we voted for the appropriation.

The Union of yesterday had the following paragraph:

"We hear, accordingly, loud complaints against the Army expenditure. It is charged that it has run up in twelve years from \$9,000,000 to \$19,000,000: and at this last amount, though voted by a Black Republican House of Representatives, some of the members who voted for it now affect to stand appalled and aghast. If it were a fact that the Army appropriations were upwards of nineteen millions for the expiring fiscal year, the responsibility would belong as fully to the Black Republican House which voted them, as to the Democratic Senate that concurred in, and the Democratic Administration that administered them. But the fact is not so."

That paper, it will be seen, holds that because we voted for extravagant appropriations for the Army, we have no right to make any question about the extravagance in the expenditures of the public money by the Executive. It turns out, Mr. Chairman, that the Republicans had not a majority in the last House, and that they are not, therefore, responsible at all for any appropriation made at that time. This, everybody knows. I hold that if there is to be anything in the shape of responsibility at all on the part of the executive department, if this House proposes to put any effective check on the expenditures of the public money, it must hold the Executive responsible for the expenditures which are made. And if we are to be called upon, and it is to be held to be our duty, to vote appropriations for whatever expenditures may be made, whether they be authorized by law or not, and whether they be necessary or not, then, there is no check and no accountability.

The argument of the gentleman from California [Mr. Scott] might have been a very proper one a year ago. It might be very proper to say in advance that the money was necessary for this expenditure. But his argument is, that inasmuch as it was necessary to spend this money, therefore, the executive ought to do it. According to the gentleman's argument, the Executive is made the sole judge of the necessities of the country, and of what money is necessary to be expended for any particular purpose. Now, sir, I submit that it is the province and the duty of the House to determine—

[Here the hammer fell.]



Mr. STANTON, by unanimous consent, withdrew his amendment.

The question recurred on the amendment offered by Mr. SHERMAN, of Ohio.

Mr. SCOTT. I move to amend the clause proposed to be stricken out, by increasing the amount of the appropriation \$5,000.

Mr. Chairman, there seems to be a misunderstanding on the part of the gentleman from Illinois, [Mr. WASHBURNE,] in relation to the late surveyor general of the State of California, and I wish to make a statement in regard to that matter. Col. Hays, who was surveyor general of California, acting in good faith, and believing that the Government would make an ample and sufficient appropriation for the surveys of our State, exceeded the appropriation to the amount of \$220,000. As the gentleman from Missouri has stated, he entered into contracts with various parties to make surveys of the public lands in the State, and they put their men into the field. A letter was addressed to him by the Department, ordering him to curtail his expenses. That letter was *in transitu* at the time he made the contracts, and he did not receive it until it was too late to recall them. The indebtedness had been incurred. He, as the official agent of the Government, had taken upon himself the responsibility of entering into contracts with these parties. The Senators from California and my colleague and myself made strenuous efforts with the administration, and with the Department of the Interior, to keep Colonel Hays in office—for there never lived a more gallant or a more honest man. We went and begged and intreated that he should be allowed to retain his office. We were told: "No; we cannot retain him because he has disobeyed instructions, and it would be establishing a bad precedent. Although we believe that every word you utter in testimony to his high character as a man is true, the law must be enforced and he must be removed."

But, sir, to prevent any tarnish of the name of a man revered and honored by every American, and who has frequently spilled his blood upon the battle-field in his country's cause, the President voluntarily offered him the position of surveyor general of Utah as a guarantee to the country that the act for which he was removed was nothing but what was considered a breach of duty, casting no reflection upon him as a man. That is exactly the state of affairs, and he never has accepted the position tendered him.

His removal from the office of surveyor general of California has been a source of sorrow and regret to every honest man throughout the length and breadth of that State, for he is universally beloved for his noble qualities.

Mr. WASHBURNE, of Illinois. I oppose the amendment to the amendment for the purpose of saying a word or two. I know nothing in particular in regard to Colonel Jack Hays. But I understood the gentleman from Missouri to claim great credit for the Administration for having removed him from the office of surveyor general of California on account of his transactions there in regard to surveying the public lands. In reply to that I stated, what I understood to be the fact, that this same man, for removing whom from office great credit is claimed for the administration, has been appointed surveyor general of Utah. That I still understand to be the fact, although I understand further that he has not accepted the appointment. That is all I have to say.

Mr. PHELPS. I stated that he was removed from the office of surveyor general of California.

Mr. SCOTT withdrew his amendment to the amendment.

The question occurred on Mr. SHERMAN'S amendment.

Mr. FLORENCE demanded tellers.

Tellers were ordered; and Messrs. GARNETT and LOVEJOY were appointed.

The committee divided; and the tellers reported—ayes 50, noes 72.

And on the same question, at a subsequent hour, on the 7th of June, 1858, Mr. SCOTT made the following remarks to the amendment offered by him.—[See Cong. Globe, page 2768.]

Mr. SCOTT. I move to amend by inserting twenty-six instead of twenty-five dollars per mile. This, sir, is the matter which the gentleman from Texas [Mr. REGAN] very unexpectedly called up during the general discussion on this bill. I then briefly and hastily replied to his remarks against the amendment of the Senate. The gentleman seemed to take time by the forelock. He did not wait until the amendment was reported to the committee, for fear, I suppose, that he might not have sufficient time under the five-minutes debate to express his views. During these remarks it pleased him to state that if the amendment was adopted by the House it would be productive of fraud, corruption, and venality. I did not know, and I am still at a loss to know, on what ground the gentleman has arrived at that conclusion. Now, sir, that amendment has been ready and as it has become familiar to the House I will say that it is a special law under which there is no liberty, no range given for corruption. And, sir, while I advocate the adoption of that amendment—which I shall do in as brief a manner as possible—I will state, as a reason why the price of these surveys should be fixed at twenty-five dollars a mile, that it is

twice as difficult, twice as laborious, and will consume twice as much time to survey the private land claims of California as it will to survey the public domain. Under the law of 1853—the law to which the chairman of the Committee of Ways and Means referred—the price of surveying the public domain in California is fixed at sixteen dollars per mile. Now, sir, you will find there is an increase of only one-third instead of double the increase which we should have had, in consideration of more than double the labor and more than double the time being consumed in surveying private lands.

But, sir, I wish to call attention to the fact, that this is not merely an appropriation which is temporary and evanescent in its character, only lasting for a year or eighteen months; but that it is one in which interests great and vital are involved. There is no State in the Confederacy which presents the spectacle that California does, so far as her private land claims are concerned. Our litigations are expensive and ruinous, passing through all the courts of California—first, the land commission; second, the United States circuit and district courts; and then, by appeal here, through the Supreme Court of the United States—and still the claimant gets no title until the patent is issued by the Government. Now, this is an effort to get these claims surveyed and patents issued; and in doing that, you do not only justice to the land claimants, but you benefit fifteen or twenty thousand honest settlers, who have gone to that State and settled down. I apprehend that if you refuse this appropriation, and put in another sum totally inadequate, you will throw all these matters in regard to the land claims in my State into confusion, and increase this litigation, which is the curse and evil of my State, because the boundaries of these claims are not defined, so that parties litigant do not and cannot know their respective rights.

You cannot charge corruption, because of the simple fact that the surveyor general gives the work out to the lowest responsible bidder. The appropriation is made for certain specific purposes, and he has no more control over the distribution of it than the gentleman from Texas [Mr. REGAN] has. Then there is nothing in this charge of corruption, fraud, and venality, which the gentleman from Texas makes. If the surveyor general can get his work done cheaper than the amount contemplated in this amendment, it is his duty to do so; but it only puts it within his power to do justice to twenty thousand honest men, by settling claims long in litigation, by enabling them to purchase from these land claimants when their titles are clearly established and their boundaries fully defined. Not only that, but it enables the Government to bring its lands into market, free from all incumbrances, which must necessarily be done before the Government can realize from them.—[See Cong. Globe, pages 1,527 and 1,528.]

#### CIVIL APPROPRIATION BILL.

Remarks, June 7th, 1858, on "Civil Appropriation Bill," in reply to Hon. JOHN A. REAGAN, of Texas.—[Pages 2,758 and 2,759 of Cong. Globe.]

Mr. SCOTT. Not knowing that this bill was to be taken up to-day, I did not anticipate that there would be objection made to this clause of the bill on to-day. Now, sir, I know it was stated in the other end of the Capitol that living was as cheap in the State of California as it was upon this side. I deny the truth of that assertion. I state here, upon information which I have in my possession, acquired by personal experience and observation, that the cost of living in California is now twice as great as it is upon this side. The matter which we have to deal with, is the matter of labor, and the price there paid for labor. Now, in that connexion, I would state to the gentleman from Texas, that he cannot employ a laboring man in San Francisco, or in the mines of California, under fifty or sixty dollars a month. And I will state, too, that he cannot get deputy surveyors to take charge of those surveys for less than one hundred and fifty or two hundred dollars per month; nor can he employ rodmen and chain-bearers under seventy-five or one hundred dollars a month. In order to separate these private land claims from the public domain they have not only to employ laboring men to attend the engineer force, but it becomes necessary to have scientific men; and there is no place in the world where scientific qualifications command a better price than in California.

The gentleman says there is no difference in the price of labor in Texas and California. The gentleman is greatly mistaken. The simple reason that labor is so enhanced in price grows out of the mining interests of our State. If men cannot get employment in San Francisco, Sacramento, Marysville, Stockton, or any of our large places, they immediately go to the mines; and there is no man who, by care, attention to business, and industry, cannot make over two and a half or three dollars a day in the mines.

It is this state of affairs which renders it necessary that there should be a discrimination between the price paid in the State which I have the honor to represent and other States of the Union. We find that there are one hundred and thirty million acres of public land in California. We find there are no incumbrances on those public lands. We have no Indian treaties to be made in reference to them, as the reservation system is adopted in that State. Every acre belongs to the General Government. We find, how-



ever, that difficulties do arise from what are known as private land claims—claims held or claimed under Mexican grants, prior to our acquisition of that Territory from Mexico—and we find that it becomes necessary to separate those private claims from the public domain.

The law, as it now stands, prohibits the surveyor general from receiving anything from these private claimants for surveying their lands. We find, further, that if the General Government wishes to enjoy the benefits of the public domain, it must, necessarily, separate that domain from that portion which belongs to private individuals; and the gentleman from Texas admits, in his remarks, that it is more difficult to make these private land claim surveys, than it is to run the lines through and around the public domain. As I said before, the law prevents the surveyor general from receiving any remuneration from these private land claimants. It then devolves upon Congress to pass some law by which he can make contracts with deputy surveyors to separate the private land claims from the public domain. The whole point of the controversy which the gentleman has raised, is, whether this is necessary? I have stated that the price of labor there is three times as great as it is elsewhere; that you cannot get a woman servant under thirty dollars a month, or an able-bodied man under sixty dollars a month, while in Texas they can be obtained from ten to fifteen. When we contrast the prices of labor and provisions, we find that the difference is not so great as stated by the gentleman from Texas.

The matter was fully canvassed in the other end of the Capitol, and one of the Senators from my State, who first raised objection to the price stated in this amendment, finally acknowledged that it was necessary that this appropriation should be made, or the surveyor's office in California would be closed; and for six or seven months we should have no surveys going on there. I feel no interest in this matter beyond the benefit of my State. I know the surveyor general; he is a man of undoubted integrity and honesty; he has been identified with the history of that country since 1849, and I know he will look after the Government interest, and that he will get these contracts taken by deputy surveyors at the lowest possible price. He will advertise for bids, and the contracts will be let out to the lowest responsible parties. If he can get it done for fifteen dollars, he will do it. There is a spirit of emulation and rivalry there in all branches of business, as there is here, and it will lead to competition in bidding, which will secure the work to be done at the lowest possible price, and, of course, that is as reasonable as the gentleman can ask. But if you were to limit the price to fifteen or twenty dollars, you may appropriate an amount entirely inadequate to the service, and the result will be, that you will have no surveys made, and the Government will be deprived of millions of acres now ordered to be sold, and the rights of the private land claimants, which have suffered already from litigation, will be trampled upon, because, forsooth, the gentleman from Texas thinks that this appropriation is too large. Now I say, that, in justice to these parties, and also to the numerous settlers, whose rights are as much involved as these land claimants, and also in justice to the Federal Government, I do not believe that the appropriation here made is too much; if it was, I would be the first man to oppose it.

#### ARMY APPROPRIATION.

Remarks on "Army Appropriation Bill," June 9th, 1858.—[See Cong. Globe, pages 2869 and 2870.]

Mr. SCOTT. I move to amend by increasing the appropriation \$100,000. I have listened to-day, Mr. Chairman, with a great deal of pleasure to the effusion of patriotism shown by gentlemen on this floor, relative to the proposition to increase our Navy. Now, while I am willing, as heretofore, to vote for every one of these appropriations, I wish to call the attention of the committee to the condition of Fort Point, on the bay of San Francisco. Gentlemen may talk very well on this floor about fifty thousand troops being called into the field as soon as the first blast of the war bugle is heard; but I ask how is it to be with California, separated thousands and thousands of miles from the other States of the Confederacy, and having its only intercourse with them by a semi-monthly mail, by the Isthmus of Panama? If the war now impending should take place, in what condition would my State be placed? The first thing that would be done by the enemy would be to capture the California steamers; because every officer in command of a British vessel would be anxious to secure the prize-money—consisting of millions, which we are semi-monthly sending you from our State—that he would derive from such a capture.

Now, if you give up this \$150,000 to continue the works at Fort Point, which guards the entrance to the mouth of the harbor of San Francisco, we can defend ourselves and defy the combined and united fleet of England. But strike down that appropriation and leave the fort uncompleted, and we are at the mercy of the most powerful maritime nation of the globe. This appropriation should be separate and distinct from the rest, although I will cheerfully vote for them all, in order to place all sections of our Union in a proper



state of defense. Here, in the Atlantic States, you have your means of defense; you have your ships in harbors, and can concentrate them at a given point to do battle with the naval forces of a foreign Power; but there is a portion of the Confederacy which is undefended and unable to defend itself from the British Pacific squadron. I do not look upon this as a war measure, for even in the time of peace we should be prepared for war; and justice demands that this appropriation should be made. You will not give us a Pacific railroad. The route across Salt Lake is already stopped up by war with the Mormons. You have an overland route, it is true, between Texas and San Diego; but let any gentleman make the calculation and tell me honestly and candidly if you could transport troops by that route in sufficient time to protect us. True, in California, we could raise in time of war fifty thousand as gallant men as ever shouldered musket or trod in shoe leather; but, unless you give us an appropriation by which we can have the means and material necessary to defend that flag which you all honor as much as I do, I tell you you will see the painful and humiliating spectacle of the country being placed in the condition of having one portion of it captured, in the possession and at the mercy of a foreign foe.

(Here the hammer fell.)

Mr. LETCHER. It seems to me, Mr. Chairman, that we have a new definition of "*patriotism*" now-a-days. It consists in spending money. The gentleman from California insists upon it, that unless we display our patriotism in that way, California will be ruined. Now, sir, I take the occasion to say, that no nation has ever exhibited more of this sort of "*patriotism*" to a portion of her people than this Government has shown to California, from the time she was admitted as a State into the Union. We have appropriated much more largely to her than any other State for fortifications and for various other purposes, within the limited time that she has been a member of the Confederacy of States. But the gentleman says now we must go on, that we must continue to make appropriations in answer to her demands. He says that if war breaks out, California is in an exposed condition. Why, have we not heard all day that there is to be no war? Has not that been the cry from the time the debate commenced this morning up to the present moment; that the increase of the Navy was for the protection of commerce; that no war was to grow out of the difficulties between this country and England; that all was settled, and that if war was to come, we would be required to construct a much larger number of vessels? And now, when these fortifications come up we are told that we must build them for the purpose of being prepared for that very war which nobody believes is coming!

And he further said during the debate:

Mr. SCOTT. I move to amend the Senate amendment by increasing the amount \$150,000. It it always disagreeable to me to consume the time of the House, and I never do it unless it be in conformity to a sense of duty. I represent a State which I know has varied interests, and I am sure the committee will bear me out in saying that I do not intrude upon them except when her interests are concerned. I wish to make a few remarks in regard to the question now pending. The gentleman from Mississippi says that the Secretary of War does not, as shown by the letter which has just been read, consider this road a military necessity. I grant it that those exact words are not used, and that it is not imperative upon Congress to pass the appropriation, but, at the same time, he considers its construction expedient. I then concede, so far as the views of the Secretary of War are concerned, relative to this road, that the construction of it would be of vast advantage to the military affairs of the country as a matter of true policy. That is the construction I place upon his language.

Now, sir, I desire to call the attention of the committee to the fact that I come from a State which the gentleman from Virginia has been pleased to assail, upon the ground that she is ever asking something from the hands of the Government. Now, sir, I desire the gentleman to understand that the reason that she does so, is that her chief product is gold itself. Let them also remember, and the gentleman from Virginia particularly, that when this whole country was stricken down by a pecuniary crisis, and wo and despair were depicted upon every face upon the Atlantic coast, and the financial condition of our Union was utterly prostrated, California came to the rescue with her millions of gold, infused new life and vigor in our monetary affairs, and restored wealth and confidence to all classes of our community. I come from a State which receives a large accession from all parts of the Union—a State that is strictly a Union State, where northern and southern men are bound together in one grand bond of brotherhood. And this is an appropriation for a military road by which both sections of the Union will be benefited equally, because it is central. Your men of the North and the South wish to go across the plains to settle in that State, and you cannot now get there by the way of Salt Lake, which is blocked up on account of the Mormon war. You cannot tell when that war will be terminated; and it was properly stated by the gentleman from South Carolina,

[Mr. Borce,] in a recent speech, that there may be a guerrilla warfare carried on for years in the gulches and ravines of Utah, and no man can see or foretell when its termination will occur. But here is a route which is demonstrated by the survey of Lieutenant Beale to be all that you can desire. I ask, therefore, that the sum of \$250,000 shall be appropriated to finish that road. I ask gentlemen, while you vote \$1,000,000 to introduce water within the city of Washington, in the name of justice cannot you appropriate \$150,000 for a connecting link between the Atlantic and the Pacific?

[Here the hammer fell.]

The amendment was not agreed to.

The Senate amendment was not agreed to.

So the report was concurred in.

Mr. GARNETT moved to reconsider the vote by which the report was concurred in; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

## REVENUE BILL.

Remarks on the Revenue Bill, June 12, 1858—See Cong. Globe, page 3,030.

Mr. JOHN COCHRANE. I rise to a privileged question. I desire to make a report from the committee of conference on the bill of the House No. 466, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 466) making appropriations for the expenses of collecting the revenue from customs, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from its disagreement to the fourth amendment of the Senate, and concur with an amendment, as follows: Strike out all after the word "warehouses," in line five, to the word "than," in line eight, and insert, "or appraisers shall receive a compensation more than twenty-five per cent. greater."

R. M. T. HUNTER,

J. D. BRIGHT,

B. F. WADE,

*Managers on the part of the Senate.*

JOHN COCHRANE,

W. L. UNDERWOOD,

*Managers on the part of the House.*

There were but four amendments proposed by the Senate to this bill. In two of those amendments the House concurred. To one of them they disagreed, but concurred in it with an amendment, to which the Senate agreed, leaving thereby only the fourth amendment in which the House non-concurred. The Senate insisted, and asked a committee of conference, and it was upon that amendment that the conference was had. I will read the amendment of the Senate, so that the House may understand the action of the committee of conference. It is as follows:

*And be it further enacted,* That no collector of the customs, deputy collector, naval officer, deputy naval officer, surveyor, deputy surveyor, general appraiser, superintendent of warehouses, or any other officer or person engaged in the collection of the revenue, shall receive a greater compensation than is now paid to the officers and persons engaged in said service at the port of New York: *Provided,* That this section shall not be so construed as to increase the compensation of any officer of the customs, or of any person engaged in the collection thereof."

The House should understand that there is but one collection district at which the compensation of officers is greater than the compensation of officers at the port of New York. That district is the district of California. Of course this Senate amendment operates, and was intended to operate, upon the compensation of officers in that district. The effect of the amendment was to cut down the compensation of all officers and employees engaged in the collection of the revenue in that district. The House non-concurred in the amendment. The subject has been freely discussed by the committee of conference, and they came to the conclusion—with but one exception, and that was the gentleman from California, [Mr. Scott]—that the amendment of the Senate should be concurred in, with an amendment to strike out the words "or any other officer or person engaged in the collection of the revenue shall receive a greater compensation," and insert the words "or appraisers shall receive a compensation more than twenty-five per cent. greater;" so that the amendment, if the recommendation of the committee is concurred in, will read:

That no collector of the customs, deputy collector, naval officer, deputy naval officer, surveyor, deputy surveyor, general appraiser, superintendent of warehouses, or appraisers, shall receive a compensation more than twenty-five per cent. greater than is now



paid to the officers and persons engaged in said service at the port of New York: *Provided, &c.*

A few words in this connection are perhaps necessary to a full understanding by the House of the reasons of the action of the committee in the premises. The following statement will show the comparative compensation of the several officers at the port of New York, and at the port of San Francisco:

|                               | <i>New York.</i> | <i>California.</i> |
|-------------------------------|------------------|--------------------|
| Collector.....                | \$6,400.....     | \$10,000           |
| Deputy collector.....         | 2,500.....       | 4,000              |
| Naval officer.....            | 5,000.....       | 8,000              |
| Deputy naval officer.....     | 2,000.....       | 3,600              |
| Surveyor.....                 | 4,900.....       | 7,000              |
| Deputy Surveyor.....          | 2,000.....       | 4,000              |
| Warehouse superintendent..... | 2,000.....       | 3,600              |
| General appraiser.....        | 2,500.....       | 6,000              |
| Appraiser.....                | 2,000.....       | 6,000              |

This scale of compensation, so much greater in San Francisco than in New York, was adopted in reference to high prices current and high rates of rent in San Francisco, compared with what they then were at any other port of the United States. It was averred in the committee, and with truth, that the scale of prices for living, rent, &c., in San Francisco was now nearly that at New York and other ports of the Union, but was conceded that it was still somewhat greater, though not as great as formerly. In reference to that it was that the committee thought that if they adopted a rate of compensation to the superior officers in San Francisco engaged in the collection of revenue twenty-five per cent. greater than that of the same class of officers in New York, the amendment would meet the case and adjust itself to the greater expense of living. They, under the same considerations, also came to the conclusion that it would not be justifiable to extend the force of this amendment to that class of officers designated in the words of the Senate amendment, "or any other officer or person engaged in the collection of the revenue," and which we propose to strike out. So the words referring to all those lesser officers, the manipularies—if I may so term them—of the custom-house and revenue laws, were stricken out, and the amendment left as valid and applicable only as to superior officers. It is proper to say, however, that the third manager on the part of the House, the member from California, did not assent to that agreement or report, thinking that the compensation ought to be greater.

Mr. SCOTT. At this late hour of the night I would not trespass on the time of the House, but a sense of duty constrains me to make a statement to this House. Lest some might construe my opposition to the report of the committee of conference as a factious one, I desire to say that so far as my action in the committee of conference was concerned, it was based on personal experience and personal knowledge. It was not my desire, even if it lay in my power, to endanger or jeopardize the bill making appropriations for the collection of the revenue. I did believe that the compensation of the custom-house officers in California was far below that which their efficiency, capacity, constancy, and worth deserve. Still I was willing to agree to a moderate deduction, and went so far as to concede this much. When that amendment was introduced in the Senate, a superficial observer might have arrived at the conclusion that it was intended to extend over all the revenue districts of the country; but when you come to examine it, you find that the salaries of these officers are all equalized, except in the State of California. Now, I say that this is unfair and ungenerous legislation, especially when the Secretary of the Treasury has in contemplation a revision of the expenditures for the collection of the revenue. I saw that, to my gratification, when it came to the House, the Committee of Ways and Means recommended, and through my instrumentality, a disagreement, and the House rejected the Senate amendment by a decisive vote. It was shown by a gentleman on the committee of conference that the cost of living and of clothing was almost twice as great in California as it is on this side. The salaries of our custom-house officers have, nevertheless, been reduced to one-fourth more than those in the Atlantic States.

I do not intend to trespass on the time of the House further in this matter. I have done my duty. My action has sprung from no factious opposition, nor from a disposition to retard the action of this body, so far as this bill was concerned, but to do justice to those who are far distant, and who cannot come around Congress to show the difference between their expenses in the city of San Francisco and those in New York. I believe that this is an unfair, unequal, and unjust discrimination between the officers in San Francisco and the officers in New York.

Mr. JOHN COCHRANE, I move the previous question.



Mr. CLEMENS: I desire to reply to the gentleman from California. [Cries of "Question!" "Question!"]

The previous question was seconded, and the main question ordered; and, under its operation, the report of the committee of conference was adopted.

Mr. JOHN COCHRANE move to reconsider the vote by which the report of the committee of conference was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## SECOND SESSION.

### PACIFIC RAILROAD BILL.

The House being in Committee of the Whole on 21st January, 1859, Mr. SCOTT delivered a speech on the Pacific Railroad Bill.—[See Cong. Globe, 2d session, pages 470, 471, 472 and 473.]

(The same having been extensively circulated by Mr. S. throughout the State, it is considered by him unnecessary to reprint it.)

### LEGISLATIVE, &c., APPROPRIATION BILL.

The House being in Committee of the Whole on the 8th Feb., 1859, in course of the debate which ensued "on the amendment of Mr. WASHBURN, of Illinois, to strike out" "for special and other extraordinary expenses of California land claims, \$40,000," and afterwards in same debate by the same gentleman to reduce it to \$20,000, Mr. SCOTT made the following remarks in reply to Mr. WASHBURN.—[See Cong. Globe, page 890.]

Mr. SCOTT. The chairman of the Committee of Ways and means have answered the gentleman from Illinois, and, I think, fully and thoroughly. And I have now no disposition to go into a discussion of the matter. I feel no interest in it, except that justice may be done to parties who have certainly rendered this Government great service.

Mr. WASHBURN, of Illinois. I wish to say that I understand that an appropriation was made last year of \$40,000, for services in regard to these California claims. Why this additional compensation is made for the next year, is what I desire information in regard to. I agree with a great deal of what the gentleman from Missouri has said. I know very well the transactions which have taken place in California, that Mr. Stanton, of Pittsburg, was sent there, and discharged his duties with extraordinary ability and fidelity to the Government; and I desire that he shall be paid a liberal salary, because I believe that he has saved a great deal of money to the Government.

Mr. SCOTT. Mr. Chairman, I understand that these suits have been recovered by Mr. Stanton, of Pennsylvania; and that this appropriation contemplates paying him for the additional labor which may be consequently imposed upon him in following them through, and in attending to the other cases which may occur in California, and in which the Government of the United States is interested. As I have said already, the gentleman from Missouri has answered all of the objections of the gentleman from Illinois to this appropriation; but, sir, that gentleman made this inquiry: whether the United States did not have a district attorney at San Francisco, and whether he was not sufficient to the discharge of the duties incumbent upon him? Whether he was not capable of meeting and defending all the suits which the Government may have in California? I will state to the gentleman from Illinois, in answer to that inquiry, that, in a conversation which I had with Mr. Stanton not more than five days ago, he told me that he had frequently consulted with the most distinguished lawyers in the Union, but that he never had met with a more distinguished one than Peter Delle Torre, the present United States district attorney at San Francisco; that he was distinguished for his legal ability and for his energy, and that the Government could not have a more faithful official to fill that position.

Mr. WASHBURN, of Illinois. I did not call into question Mr. Torre's ability; I only inquired whether it was his duty to attend to these cases.

Mr. SCOTT. I thought that the gentleman insinuated that additional counsel had been called in because the district attorney was not qualified for his duties. He is overwhelmed with labor. No one but those who have been there have any conception of the duties which devolve upon the district attorney of California. In California we have a learned bar. It is composed of gentlemen from all sections of the Union, who have gone there to seek their fortunes. So far as this Limantour, and other claims, are concerned, which involve millions and millions of dollars, you find the district attorney with the whole bar arrayed against him. It was deemed absolutely necessary that these means should be furnished, in order that the Government should properly compete with the overwhelming interests which may be arrayed against it.

The question was taken; and Mr. STANTON's amendment was rejected.

Mr. WASHBURN, of Illinois, by unanimous consent, withdrew his amendment.

## POST OFFICE APPROPRIATION BILL.

The House being in Committee of the Whole on the 23d Feb., 1859, in course of the debate on the great overland mail route, and on the amendment of Mr. SMITH, of Virginia, "that it shall be the duty of the Postmaster General to abrogate the mail contract of Butterfield & Co., if the transportation of the letters carried by them heretofore shall have cost the government twenty dollars each." Mr. SCOTT, in reply to him and others, made the following remarks in the five minutes allowed for debate:

Mr. SCOTT. Mr. Chairman, I sincerely regret and truly deprecate the discussion which has arisen between the States of Missouri and Tennessee upon this great overland route between St. Louis and Memphis to San Francisco. As long as the discussion existed between Missouri and Tennessee, I had no desire to participate in this matter, nor to bring my State into a triangular fight. I have watched this debate with considerable solicitude, anticipating that such a move would be made as has been made by the gentleman from Virginia, [Mr. SMITH,] for the amendment which the gentleman has offered, and the argument which he has made, would virtually abrogate the contract of Butterfield & Co., and destroy the route. Now, sir, the gentleman has arrived at the jumping off place, and it is right that I should be heard.

I tell the gentleman from Virginia that, in this move, he places himself in direct antagonism with the sentiments of four-fifths of the people of this country. Do you recollect, sir, the burst of excitement and enthusiasm which pervaded this Union when it was thought that the Atlantic telegraph was a success? This enthusiasm was only equaled when the telegraphic wires from St. Louis announced to this country that the great waste lying between the Mississippi and the Pacific had been traversed in twenty-four days and a few hours; and that American energy and American enterprise and American courage had achieved that which every man felt a glow of pride and satisfaction in. As regards the statement made by the gentleman in relation to the number of letters carried over this overland route, I say this: that not having the statistics with me, I cannot give him a detailed or accurate statement of the amount of mails carried by Butterfield & Co.

But, sir, I do know that they have carried heavy mails of letters, and I am informed that they are now making preparations to carry over newspapers in addition to the letters.

I think that there is a good deal of good sense in the argument of the gentleman from Missouri, provided that it would reduce the time to fifteen days, as the gentleman alleges it will; but I regret that he has made this move, as it may jeopard the existence of this route; and I deprecate the feeling which it has engendered in this House. The people of this Union are not only in favor of these overland routes solely on account of the mail facilities which they afford, but because they are the great pioneers or forerunners of settlement and civilization of that immense territory lying between the Mississippi and the Pacific; and we find now, sir, all along these routes, stations which will soon grow and extend into villages, and ere long into towns and cities. The emigrant who formerly slept on the plains amid the howls of the wolf and the whoops of the Indian, will now find in his toilsome and weary journey over the plains a house to shelter him, and a friend to defend him.

I am for economy—for enlightened economy and reform in Government expenditures; but I will vote thousands, and that cheerfully, whenever it will contribute to the greatness, the grandeur, and power of my country; and this is what I conceive to be the duty of every American statesman and patriot.

[Here the hammer fell.]

Mr. AVERY. I ask the gentleman from California if he is not willing to allow the present contract to remain as it is?

Mr. SCOTT. I reply to the gentleman that I am anxious to let well enough alone.

The amendment to the amendment was not agreed to.

## NAVY APPROPRIATION BILL.

The House being in Committee of the Whole, on the 26th February, 1859, in the debate which ensued on the amendment to appropriate \$20,000 to Mare island, and which was proposed to amend, by striking out that sum and insert \$150,000. The following is part of the debate in which Mr. SCOTT engaged on behalf of California; and for balance, see Congressional Globe proceedings of 26th February, 1859.

Mr. OLIN. In reply, if it be in order, I move to strike out that entire section. If that amendment be not in order, I wish to oppose the amendment of the gentleman from Virginia.



The CHAIRMAN. The only question before the committee, is the amendment of the gentleman from Virginia.

Mr. OLIN. Then I oppose that amendment. The reasons for my opposition are as well applicable to the appropriation as a whole as to any increase of the amount. I have endeavored on former occasions to procure some information to be laid before the House, which would, in my judgment, instruct the House in relation particularly to this navy-yard, and also in relation to the arsenal that is proposed to be established in the vicinity of Benicia. If I could have succeeded in having that document laid before the House, it would have shown, I think, that the expenditure of money already made by the Government of the United States, at that point, is a misapplication of the public money.

Mr. SMITH, of Virginia. Say why?

Mr. OLIN. I will say why. It is because it is manifestly in the wrong place. If any navy-yard is to be constructed in California for the purpose of construction, it should manifestly have been at San Francisco.

Mr. SMITH, of Virginia. I speak from personal knowledge of this particular locality; and I say that there is not, perhaps, under the sun so admirable and happy a location. It is only twenty miles from San Francisco.

Mr. OLIN. I believe it is forty miles.

Mr. PHELPS, of Missouri. Thirty.

Mr. OLIN. Any information that the gentleman can give me from personal knowledge, would be received with great gratification, as well as respect; but on this business of constructing navy-yards, I speak on the information of a man on whose judgment the House, I am sure, would rather rely than on that of the gentleman from Virginia. Now, I assert here, what every man in the country knows, that a navy-yard, for the purpose of construction, in California, is worse than a cat with two tails. There is no necessity for it. There can be no necessity for it. If this yard were completed at an extravagant outlay, the Government could get work done at vastly less expense in the yards on the Atlantic coast. Every gentleman knows it. All that it is needed there is a navy-yard for the purpose of repair; but instead of that, the Government have entered into the tomfoolery of establishing a navy-yard, for the purpose of construction, on the Pacific coast. Why there? Does the Government contemplate building any vessels there? Not at all; and will not for the next twenty-five years. Until the relations of the Pacific and Atlantic coasts are entirely changed, it would be a profligate waste of money to attempt the construction of vessels at that point.

And then, again, my objection to this expenditure is this, that the navy-yard is in the wrong place. If there is to be a navy-yard built on the Pacific coast, it manifestly ought to be located at San Francisco.

[Here the hammer fell.]

Mr. SMITH, of Virginia, by unanimous consent, withdrew his amendment to the amendment.

Mr. SCOTT. I move to amend the amendment by striking out "\$20,000" and inserting, "\$230,310," which is the sum recommended by the Committee of Ways and Means.

Mr. Chairman, I wish to reply to the remarks made by the gentleman from New York, [Mr. OLIN,] for I believe he is laboring under a misapprehension in regard to Mare island being a proper place for a navy-yard. Now, sir, I have been there myself. I have been upon the site, and though I do not mean to set myself up before the House as an expert in such matters, but, so far as my humble judgment goes, I do not believe that a better site or position could have been selected. But, sir, the gentleman says that the Government never contemplates building vessels at that yard. He is certainly in error in that, as he was in regard to his conceptions of the navy-yard at Mare island, because they are now building one of the sloops there under the bill passed last year.

Mr. OLIN. It is a political job, then.

Mr. SCOTT. I know nothing about that. If there is any political job, I was not instrumental in it, and know nothing about it. And, sir, I would tell the gentleman that, so far as political jobbing in my State is concerned, there is no earthly necessity for it by this Administration, or any other Administration; because, in a State that polls one hundred and ten thousand votes, and can give such a majority against the Opposition as she has always done, on the right side, there is no need of jobbing to carry one little county and some two hundred employees. It would exhaust the Federal Treasury of the United States to affect the political results in my State; and after it was exhausted among the politicians, the masses, true to the Democracy, and true to the Constitution, would stand firm and uncorrupted.

But I want to come to another point. It has generally been the custom for the Opposition here to be liberal towards California; and I have always given them credit for it.



But it seems now that a strange change has taken place in the Opposition here. Only two days ago the gentleman from Ohio [Mr. SHERMAN] endeavored to strike down the arsenal at Venicia.

Mr. SHERMAN, of Ohio. No, sir.

Mr. SCOTT. I thought the gentleman did.

Mr. CURTIS. It was a gentleman from Virginia, on the other side of the House.

Mr. SCOTT. Well, sir, I thought it was the gentleman, [Mr. SHERMAN,] but I believe that I am incorrect, and it was his colleague [Mr. PENDLETON] who made that move. The gentleman from Ohio now comes forward and endeavors to strike down the navy-yard at Mare island. Now, I conceive that if there is any State of this continent which requires a navy-yard, and which requires an arsenal to enable her to defend her interests and maintain her rights in the event of a war, it is California. When you begrudge us a Pacific railroad; when you have been cutting down the Indian appropriations; when you are cutting down the surveys of the public lands; when you are cutting down the fortifications—

Mr. CLARK B. COCHRANE. When the gentleman says "you begrudge us a railroad," to whom does he refer?

Mr. SCOTT. I am alluding to the whole Congress. I do not bring that charge against your party in particular.

Mr. CLARK B. COCHRANE. That is right.

Mr. SCOTT. I am fair in all that I say. But I say that it is a very singular thing—and if I had the statistics here I could prove it—that when you are retrenching and putting the pruning-knife to all these expenditures, my State suffers nine times as much as any other State in this Confederacy. The Committee of Ways and Means, in the first instance, cut down the estimates fifty per cent., and then when the bill comes before the House, the House applies the pruning-knife still further, and seeks to cut down the reduced estimates of the Committee of Ways and Means.

Now, the estimate of the Secretary of the Navy for this navy-yard is \$406,000. The Committee of Ways and Means have reduced it to \$233,000, and now the gentleman from Ohio proposes to cut it down to \$20,000, and the gentleman from New York says that the whole of it ought to be done away with.

Now, it seems to me that it would be very poor economy, when the Government has spent millions on this navy-yard and it is in a complete state, if, for want of the paltry sum of \$233,000, we sacrifice these improvements.

[Here the hammer fell.]

#### "CIVIL APPROPRIATION BILL."

The House being in Committee of the Whole, on the 28th of February, 1859, and the "Civil Appropriation Bill" being under discussion, the following debate occurred:

Mr. GARNETT. I move to reduce the appropriation in the following paragraph to \$53,000:

"For surveying the public lands and private land claims in California, including office expenses incident to the survey of claims, and to be disbursed at the rates prescribed by law for the different kinds of work, and also including all the accounts for surveys of public lands and private land claims in California, under contracts prior to the 30th June, 1857, \$103,000."

Mr. Chairman, I find by the Secretary's estimates, that there will be \$50,000 of unexpended balance applicable to that purpose on the 1st of July next. That, with the \$53,000 I propose, will leave \$103,000, the amount of this appropriation. I find, by the report of the Commissioner of the General Land Office, that there are sixty-two million acres of the public land surveyed and ready for sale. Under that state of fact, I think that we ought not to push our surveys further. We have more surveyed than we think it proper to bring into the market.

Mr. KEITT. I oppose the amendment, and ask for the question.

Mr. SCOTT. I move to increase the amount \$10,000.

Mr. Chairman, I do not wish to trespass on the time of this committee; but I have been in this Hall from eleven to eight o'clock, watching and guarding the interests of my State, anticipating that some such move as this would be made. I think I must have a good temper; I must have the patience of Job, to stand the retrenchment and reform which are specially directed towards California. I want to call the attention of the committee to the fact that the estimate for the surveys of public lands, for this year, is only \$103,000 for the State of California, while last year it was \$320,000—a reduction of \$217,000. After deducting \$60,000 for a deficiency, the actual amount allowed for the surveys of public lands in the State of California, for the fiscal year terminating 30th June, 1860, amounts to the paltry sum of \$43,000. Now, as the gentleman from Virginia wishes to be satisfactory to the gentleman from Virginia?

to suspend all the operations of Government, stop the constructions of buildings, do away with our fortifications, our arsenals, and our navy-yards, let him do it; but in carrying out his policy, he will not only inflict injury upon my State, but he will ultimately wrong the Federal Government, by what I believe to be a false system of economy.

But, sir, you must take into consideration the fact that the expenditure made by the Federal Government for the surveys of the public domain is not a useless expenditure; but that the Government is eventually benefitted by being reimbursed by the sales of the public lands.

Mr. CLAY. I ask the gentleman whether he considers the new surveys, contemplated under this appropriation, as necessary for the development of California, in the way of population, or any other way?

Mr. SCOTT. I take this broad ground that it is necessary, not only for the development of the interests of California, but of her citizens; because this survey will facilitate the separations of the private land claims from the public lands. I think this is a duty which the General Government owes not only to California, but to itself, to prosecute the surveys of her lands, and I would impress this view on the consideration of the House: that this course will eventually result to the benefit of the Federal Government, by allowing the public lands to be brought into market and sold for what they are worth.

Mr. GARNETT. I have no objections to having these lands surveyed; but not until the lands already surveyed have been brought into market.

Mr. SCOTT. Twenty-five million acres have been already surveyed.

Mr. GARNETT. How much of it has been brought into market?

Mr. SCOTT. I cannot now state the exact amount, but many million acres are advertised, and will be soon sold. If the survey of these lands be stopped, it will cause litigation and difficulties that cannot be removed or repaired by any future action of Congress. Every member knows that I am not factious in opposition, and that I very rarely intrude upon the time or attention of the House, except in the defence of the interests of my own State. As I said before, the course that the Government is steadily pursuing now, will, if persisted in, not result to the benefit of the Federal Government; but if this economy or retrenchment idea is carried out, according to the wishes of the gentleman from Virginia [Mr. GARNETT] and others, serious loss and injury will be inflicted on the Government and on my State.

Mr. WASHBURNE, of Illinois. I oppose the amendment, and ask for a vote.

Mr. SCOTT withdrew his amendment.

Mr. BURNETT. I propose to amend by reducing the amount \$3,000. I do not say that this appropriation ought to be reduced. I will not go into the consideration of that question now; but I do not understand the policy of going on and surveying the public lands from year to year, while we have sixty-two million acres already surveyed, and ready to be brought into market, and not one acre of it for sale. Why should these surveys be continued under such circumstances? I would like to hear some gentleman tell us why these lands are not brought into market? When it can be shown that these lands are being sold for the benefit of the Government, I will be ready to vote money for the continuance of these surveys.

Mr. PHELPS, of Missouri. At the urgent request of citizens of the Territories of Kansas and Nebraska, the sale of the lands advertised in those Territories has been twice postponed because of the monetary crisis in the country; and because of the inability of the settlers on the public lands to secure the lands on which they have made their improvements. The same course has been pursued in the State of Minnesota. If the gentleman from Kentucky had examined the Washington Union he would have seen that advertisements for the sale of the public lands are now being published. These sales are to take place during the residue of this fiscal year, and during the next fiscal year in the States of Wisconsin, Minnesota, Louisiana, and Mississippi.

The annual estimates submitted to us by the department for the surveys of the public lands amount to \$115,000. The Committee of Ways and Means reduced the item to \$60,000. So in regard to the surveys in the Territories of Kansas and Nebraska. The estimates submitted were \$54,000; the Committee of Ways and Means reduced the item to \$14,000.

There are reasons why this reduction should not take place in regard to California. A much larger sum, per mile, is paid for the public surveys in California than in any of the other States or Territories. We have to pay from twelve to sixteen dollars a mile for surveys in California. The surveys of the private land claims in California have not yet been finished, and until they be, there will be difficulty in regard to the titles to land there. The object is to complete these surveys; separate the private land claims from the public lands, and then bring the public lands into market.



Mr. BURNETT. I withdraw my amendment. My object was to hear from the Committee of Ways and Means.

Mr. LETCHER. I propose to amend the amendment of my colleague by reducing the amount to \$3,000. It strikes me that in the present condition of affairs, if we were to bring the public lands into market, there would be less occasion for making a fuss about the revision of the tariff of 1857. Here, as has been stated over and over again, are sixty-two million acres of public lands already surveyed. The treasury is empty, and the Government has no money to carry on its operations. We expect to derive fully as much revenue under the tariff of 1857, as was calculated on at the time of its passage. That, with the ordinary revenue derived from the public lands and from miscellaneous sources, would afford a sum sufficient to meet the expenses of the Government on any fair principles, and to provide for the interest on the outstanding debt. But why should the Government, like a miser, hold the mineral lands and keep them out of the market, while there are persons who desire to invest in these mineral lands in California and elsewhere, and while handsome sums might be derived from that source, and added to the revenues of the Government?

Mr. PHELPS, of Missouri. I ask the gentleman from Virginia whether the mineral lands of California are not kept out of the market for the very reason that the law forbids their being surveyed? Why not repeal the law?

Mr. LETCHER. I am complaining of the whole policy in regard to this.

Mr. SCOTT. The General Government has not the right to dispose of these mineral lands. If she had, she has not the power to enforce her rights; for although my State is true and loyal to the Union, she would resist to the last any such encroachment on the part of the Federal Government.

Mr. LETCHER. Are we to be told that the Government is the owner of these mineral lands, and yet has not the power to survey and sell them in the State of California? Are we to be told that the revenue derived from these mineral lands is at an end? Are we to be told that State power is sufficient to deprive the General Government of its power over these lands?

Mr. MARSHALL, of Kentucky. I will say to the gentleman from Virginia that that declaration from California is not new, for it was made on this floor two years ago.

Mr. CLAY. I have risen to oppose merely *pro forma* the amendment of my friend from Virginia, and I agree with him in most of what he has said. We all agree that the Treasury of the United States is in rather a dilapidated condition; but, at the same time, we all believe in the inherent resources of this great country, and none of us are afraid of bankruptcy. But I have risen for the purpose of stating what, in my opinion, is the duty of the Government of the United States in respect to these public lands, of which she has such a vast empire. In my judgment, she does not hold these public lands for the purpose of revenue, for the purpose of deriving a profit from them; she holds the public lands, a grand domain, for the purpose of making of them new States; and those lands should only be surveyed—especially when the condition of the Treasury is such as it now is—as there seems to be a demand for them for actual settlement. It is not that the United States Government expects to make money out of them.

The gentleman from California, [Mr. Scott,] whose devotion to the interests of his State we all recognize, and who, whenever any question affecting her interests arises here, stands up here like a man for those interests, tells us that because, last year, we spent three or four hundred thousand dollars in carrying on these surveys, we ought now to spend at least one hundred-odd thousand dollars. I reply to that argument, that, in the present condition of the treasury, we ought not to spend one dollar that is not actually demanded by the necessities of the Government and of its advancing population.

Mr. SCOTT. I ask the gentleman whether, if you cut down the estimates two-thirds, that is not a reasonable deduction?

Mr. CLAY. I understand that there are already sixty-odd million acres of the public lands surveyed and not in the market, and fourteen-odd millions of that amount are in the State of California. Now, sir, I acknowledge the grandeur of that empire of gold. I will acknowledge the bounteous hand with which the sons of California—if, indeed, the State is not too young to have sons—

[Here the hammer fell.]

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During the First Session Mr. Scott made the following reports, &c.:

THOMAS J. ASHBURY.

Mr. SCOTT, from the Committee on Indian Affairs, made an advance report on the



memorial of Thomas J. Ashbury, which was laid upon the table, and the report ordered to be printed.

#### EXPLORATION OF AMOOR RIVER.

Mr. SCOTT offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of State be, and is hereby, requested to furnish to this House, as soon as practicable, if not incompatible with the public interest, all information that may be on file in the State Department relative to the exploration of the Amoor river.

This report has been printed and distributed in California.

#### HARBORS IN CALIFORNIA.

Mr. SCOTT also offered the following resolution, which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce is hereby instructed to inquire into the expediency of making an appropriation for the protection and perservation of the harbors of San Diego and San Pedro, in California; and to report by bill or otherwise.

#### DENT, VANTINE AND CO.

Mr. SCOTT, from the Committee of Indian Affairs, reported a bill for the relief of Messrs. Dent, Vantine & Co., for provisions furnished to Indians in California, during the years 1851, 1852, and 1853; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

#### CECILE COMPARE.

Mr. SCOTT, from the same committee, presented an adverse report in the case of Cecile Compare; which was laid on the table, and ordered to be printed.

#### STEAMBOAT PASSENGER BILL.

Mr. SCOTT offered a bill for the better security of the lives of passengers on board of vessels navigating the ocean, propelled in whole or in part by steam; which was read a first and second time.

Mr. SCOTT. I ask that the bill be referred to the Committee on Commerce, and be ordered to be printed.

Mr. LEICHER. I would make a suggestion to the gentleman from California. The Committee on Commerce. I understand, have reported back a bill in regard to the preservation of lives on those same vessels, and it will come up on the day set down for it by special order of the House. I understand that my friend from California designs to offer his proposition, hereafter, as an amendment to that bill. I would suggest, therefore, that it be printed, and that it be left before the the House, so that the gentleman may offer it at any time. If referred, it may not be reported back by that time.

Mr. SCOTT. I am much obliged for the suggestion made by the gentleman from Virginia. This bill I intend to offer as an amendment to the bill introduced by the Committee on Commerce; but I now propose to have it printed, and that it be referred to the Committee on Commerce. The bill has been carefully prepared on the basis of the report made by a committee of underwriters of the city of New York, and I desire that it may be printed, and referred to the committee I have indicated.

The bill was referred to the Committee on Commerce, and ordered to be printed.

#### FEES, ETC., IN COURTS IN CALIFORNIA.

Mr. SCOTT introduced a bill to regulate the fees and costs to be allowed marshals, district attorneys, clerks of courts, jurors, and witnesses, in the State of California, and the Territories of Oregon and Washington; which was read a first and second time, and referred to the Committee on the Judiciary.

39.  
**ABOLITION OF SLAVERY.**

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**Speech of**  
**HON. THOMAS B. SHANNON,**  
**OF CALIFORNIA.**

DELIVERED IN THE HOUSE OF REPRESENTATIVES,

**First Session, Thirty-Eighth Congress,**

TUESDAY, JUNE 14, 1864.

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Mr. SHANNON said—

MR. SPEAKER, I am not addicted to boaring this House with set speeches, and nothing save the deep conviction I feel of the importance of the question now pending would induce me on this occasion to occupy time in these closing days of the session. But, sir, I would not do justice to the constituency I represent were I not to place upon the record my protest and their protest against this rebellion and its unholy cause.

It will not, I trust, be necessary in this, the fourth year of our struggle, to press upon this House proof that slavery is alone responsible for this war. No man who has read carefully the history of the past eighty years, whatever may be his political bias, will, I think, differ with this opinion. It is now our province to inquire whether that curse can be perpetuated with safety to American freedom and national unity, and if we find that it cannot, it will then become our duty to see to it that for the future it shall not exist as an element of disruption and disintegration in our midst.

Sir, the apothegm "liberty regulated by law" expresses my idea of the spirit of American institutions. It is that condition of the people wherein each is at liberty to regulate his own domestic affairs according to his own judgment or caprice, only being careful that those laws which protect the rights of his neighbor from infringement must not be violated. Slavery is inconsistent with this condition; it makes the many subject to the few, makes the laborer the mere tool of the capitalist, and centralizes the political power of the nation. Yet, sir, this centralization is not such as that which gave Russia her solidity and despotic greatness; it is that cheaper article from which "petty lords and feudal despots" spring. It draws around the slave-owning nabob all the petty trappings of the feudal system, and does not hesitate to assume like political powers. Its slaves are numbered as people to be represented, yet considered before the law as soulless beasts of burden. The man who owns five hundred slaves figures in the tables of representation as the equal of three-hundred non-slaveholders. In plain Saxon, Mr. Speaker, the half-witted heir to a plantation stocked with five hundred negroes, located in a slave State, has just the same voice in this Hall as have three hundred of your constituency, even though my friends on the opposite side should move into your district.

Much was said a few years ago on this floor and elsewhere about higher law, and men were branded with every opprobrious epithet who believed that slavery should be amenable to a law higher than constitutions or human enactments. Sir, the statesman of the North was not responsible for that doctrine; the Commonwealth of Kentucky has adopted it as a part of her organic act. The constitution of that State, adopted in 1850, contains this remarkable sentence :

“That the right of property is *before and higher* than any constitutional sanction ; that the right of the owner of a slave to such slave and its increase is the same, and as inviolable, as the right of the owner of any other property whatever.”

Now, sir, any gentleman who will turn to article thirteen, section three, of that instrument will see that I do not misquote the people of Kentucky when I assert that with them slavery assumes to exist by a “higher law” than the constitutions of our fathers. “He that is not for us is against us.” Slavery is by its own declarations in antagonism to our Constitution, and for that reason, if for no other, I would oppose its continuance.

Sir, slavery rolls back the car of civilization, and brings us once more to the feudal age, giving us that system with all its iniquities, and yet without its claims to respectability. Can such a system be legitimate fruit growing upon the tree of liberty planted by our patriot fathers, and watered by their blood? Is it not rather a poisonous parasite which clings to the sides of the tree, sucking up its sap, smothering its foliage, and sure in the end to destroy it? For my own part I could never understand why the owner of slaves should be entitled to more political weight than the man who earns his daily bread by his daily toil.

I conceive, sir, that that nation is greatest the largest proportion of whose people are educated, possessed of the comforts of life, and are endowed with citizenship. Let the voting masses of any country be composed of an independent yeomanry the majority of whom are freeholders of moderate yet sufficient estate, let them be fairly schooled, intelligent, each one bearing a fair share of the responsibilities of the Government, and that nation will be healthy ; more, sir, it will be great in a nobler sense than Rome was great.

Small farms, small towns, manufacturing communities and villages, rather than cities or large estates, are among the conditions of true national greatness. To each of these slavery is in antagonism. It revels in extensive plantations, seeks to deprive those who are not citizens of education, independence, and the comforts of life, and by increasing the proportion of slaves reduces the number of its citizens to the smallest possible point. With it the statesmanship that labors to secure “the greatest good to the greatest number” is inverted, and the greatest good to the smallest number is substituted.

Slavery and barbarism are identical. There was no enormity perpetrated in the darkest age or among the rudest people which it does not sanction. Every form of incest is common in this, that assumes to be a paternal relation. Even polygamy is degraded by it to promiscuous prostitution. Now, sir, I love the white race too well willingly to see



their blood miscegnating with the African, and must protest against any institution, however patriarchal, under which such things are profitable, and too generally, on that account, called respectable.

It has been asserted, and even in some cases by divines otherwise respectable, that this thing, slavery, was of divine origin. I shall not stop, nor have I patience, to discuss those texts in holy writ which are said to favor this view; but I shall content myself with remembering the one great test by which the divinity of all doctrines must be weighed: "By their fruits ye shall know them." Who will dare make, in this enlightened age, the assertion that the fruits of slavery are divine? What divinity, pray, in that condition of affairs where men and women are compelled to labor illy fed, more illy clothed, and unpaid, to the end that one, no better before God, should live in ease and without labor? What divinity in whipping women for protesting when their virtue is assailed? What divinity in tearing from the mother's arms the sucking child, and selling them to different and distant owners? Where is there one fruit of this tree that any man will dare to call divine?

Mr. Speaker, I have no respect for clergymen who so far forget the sacredness of their high calling as to give utterance to such a dogma. The man who preaches such stuff and believes it, if there is one such, I cannot help looking upon as a fool; the more intelligent the man who gives it utterance, the less do I respect him; for a fool may be pitied, a hypocrite must be despised. Slavery divine, indeed! Is its divinity attested by its unbridled licentiousness, or by its degradation of labor; by its destruction of every family tie, or its prostitution of both races in prohibiting its victims from acquiring that knowledge which would enable them to read God's holy word?

Where then are the fruits of its growing which proclaim it as emanating from on high? Shame on the blasphemy which would saddle such an accursed institution upon the God of love and mercy! Man could heap no greater contumely upon his maker than to attribute so unholy a thing to Heaven.

But, sir, some of these learned churchmen who find it profitable to advocate the divinity of slavery may conceive that this thievish rebellion is a bud of hope suggestive of a coming confederacy that shall prove to be a divine fruitage. Perhaps, sir, the grand dream of a confederacy whose citizens should be above the vulgar necessity of toil, and who should, every man of them, luxuriate in the enjoyment of a fat office, or rejoice in the possession of a princely revenue, would prove the disease which gave birth to the utopian dream, as being born of Heaven.

A. H. Stephens declared that the confederacy had slavery for its corner-stone. Mad brains had conceived the idea that a nation could be builded up all of whose citizens—not all of its people—should be free gentlemen and ladies, free not only to act as their own refined instincts might dictate in their intercourse with each other, but the male portion, at least, free to follow those same instincts into the descending cycle where the dusky damsels who are an integral part of this corner-stone might pander to their laziness and lust. It was to be a government whose citizens should not degrade themselves with the vulgar cares of life; they were to leave such things to their slaves, and they rule. Some would be soldiers, that

is, wear the shoulder-straps; some would fill the various official positions of civil government; others would condescend to grace the various liberal professions by their presence. There should be no non-producers who were not slaves in fact, no producers among the governing class. The poor white man should be made a common soldier, a sailor, a petty officer, or a patrolman, whose duty it should be to keep the slave population in proper subjection. For, Mr. Speaker, it is a fact which those who believe slavery divine and the normal condition of the black man must wonder at, that these so-called happy slaves have so poor an appreciation of the joys of their condition as to be constantly pining for freedom to that extent that they will skedaddle from their comfortable quarters to seek refuge among the abolition barbarians of the frigid North whenever they chance upon an opportunity, and instances are not wanting where they have even risen upon their kind and indulgent masters and struck with terrible courage for that liberty so sweet to all men. The poor whites, however, were to protect their wealthy neighbors from all such terrible contingencies. This employment of the poor white would leave no poor idle, hence no dangerous class in the community; it would all be absorbed and its interest made identical with the interest of the wealthy class. The conditions of master and slave were alone to exist, the third class being a mere adjunct of the latter.

This institution necessarily establishes three conditions of society where it prevails: the master, the slave, and that most degraded condition of all, the middle-man, or the poor white trash, whose vocation is pander and pimp, to the vices of both master and slave, and ultimately dependent on both, having no recognized condition, and enjoying none of the privileges of the governing or governed class, but an outcast from both and despised by both.

Now let it never be forgotten that our mission also is to elevate and disenthral that most injured and dependent class of our fellow white men from their down trodden and degraded condition, that they too may be men, and enjoy the independence and rights of manhood. And, Mr. Speaker, that Utopia was much nearer its realization three years ago than most of us dreamed. Why, sir, subsisted by these slaves, every well man among the citizens of the slave States has been able to become a soldier. In the North two thirds of the able-bodied men are required in the production of food and all those articles required for the subsistence of our wives, our children, and our armies. Our enemies leave all this work to the slaves, and the slaves are all productive; male and female, old and young, all go into the field. The planter and producer is not, as with us, limited to the number of able-bodied men upon the plantation. With him a woman is a full hand. She does, and is expected to do, the same work with the men. Little children are not required to attend school, as school bills for colored children form no part of the plantation expenses. The little fellows of six summers are quarter hands, at twelve are required to do half the work of a man, and at sixteen are full hands. Decrepit age and tender youth alike are made to produce subsistence for the armies and the people of the South. It is this system which calls out all the bone and sinew of the South in aid of their cause which has made the once celebrated anaconda system of warfare a failure. Sir, all the cries



of starvation we have imagined ourselves to be hearing from our "erring brethren" have been but the cries wrung from the poor creatures engaged in gathering their abundant harvests. And unless those cries are heard and heeded by this Government we can never hope to succeed in crushing the rebellion, and never ought to. We must deprive them of their producers; we must by our action in this Hall demoralize every slave left beyond the reach of our armies by guarantying to him his freedom beyond contingency; for, depend upon it, the action we take upon this bill will be known to every black man and woman in the South in a very short time.

In 1860 a period was reached which had been predicted by very many of the founders of the Republic, and which had been foreseen by that advocate of State rights, Thomas Jefferson. It was a period in which was to be solved a problem of vital importance to the American people. Jefferson wrote in 1798 that the State and General Governments were "co-ordinate departments of one simple and integral whole;" and in a letter to one of his friends said, "The enlightened statesman, therefore, will endeavor to preserve the weight and influence of every part, as too much given to any member of it would destroy the general equilibrium."

And to another friend he expressed the fear that "a conflict would arise between State rights upon the one hand and Federal rights upon the other, the one encroaching upon the other to that extent as to produce a collision. Sir, that collision has come, and now we must decide for ourselves and for those who come after us whether the one or the other shall be maintained; whether the Republic as a whole is worth more than a system of petty nations, each independent of the other, and each powerless to protect its citizens from attacks from without or dissensions within.

The idea of a confederation of States had been tried and the experiment found not worth repeating; hence, on the formation of the present Constitution, it had been decided to "form a more perfect Union" by the action of the people of the States themselves, through their delegates to the Convention. That Convention represented the people of the several States, and their action was afterwards indorsed by a vote of the people of the several States. Sir, the people, acting through that Convention, ordained that this Government should have power to declare war, make peace, regulate the currency, and be in fact a supreme Government, "a more perfect Union;" one in which the people of the several States could find repose undisturbed by foreign attacks, or the machination of factionists within their own borders. The men of 1860, swelled up with the lust of slavery and blinded by its specious reasonings in favor of what it was pleased to call the rights of the States, unfortunately have proved too weak, too unpatriotic, to maintain unsullied the inheritance of freedom left them by their sires. To these men the doctrine of State rights was a cry under which slavery with all its attendant evils was to be fostered.

Slavery had been suffered to remain in our system at first by men who were anxiously counting the days, the time when it could be abolished, as they believed, without peril to the country. They argued that it was weak, and the sense of justice which they believed was inborn in the American heart would soon lead to its final and utter abolition. In fact, our fathers were abolitionists. A provision was incorpo-



rated into the Constitution by which no new additions were to be made to the stock of slaves then in the country, and it was believed that gradually and without a jar to the Federal system it would become extinct. Our fathers were mistaken. Slavery was not waning. Every year but added strength and gave vigor to the accursed tree, and eighty years after it is found to have grown so much as to number more victims than was the entire population of the Republic in the days of the Revolution. Waning, indeed! Why, sir, to-day it claims more territory than our fathers aspired to possess for the whole nation, and fights this war to enable it to wrench more domain from the grasp of freedom. This mistake, leaving to the people of the several States the right and authority to establish and regulate the crime of human slavery, has well-nigh proved a vital one. It is not necessary to trace the progress of the slave power. Every page of our nation's history records it. Every school-boy is familiar with it. From the purchase of Louisiana and from the passage of the Missouri compromise to the breaking out of the rebellion, every year's legislation embodied some new concession to slavery, and the pill was always labeled "compromise." It was continually making aggressions upon freedom, and still claiming that it was only securing to itself rights guarantied to it by the Constitution.

Assuming that the Government was a partnership of the States, the adherents of slavery finally attempted to dissolve it unless the reins of power were delivered into their hands. It would rule, sir, or it would ruin. The issue, then, was reduced to this: we must have the Union with the Government in the hands of the slave oligarchy or submit to its dissolution. We consented to neither, but trusting to the God of battles and the patriotism of our people we dared the fight, and as sure as Heaven is just we will succeed.

Now, sir, what is this institution of slavery that has sought to assume the reins of Government in this land of freedom? What is slavery, sir? It is "the sum total of all villainies." It is the destroyer of every virtue, public as well as private, because it encourages promiscuous and unbridled licentiousness, and renders null the marriage relation. It is the enemy of all religion, insomuch as it has caused to be enacted in every slave State laws making it a felony to teach men and women whose skins are black to read even the Bible, and places restrictions about their assembling themselves together to worship God. It destroys all thrift, energy and good citizenship among the ruling classes, teaching them to depend upon the labor of others for support when God has ordained to men that by the sweat of his brow he should eat his bread. Slavery is paganism refined, brutality vitiated, dishonesty corrupted; and, sir, we are asked to retain this curse, to protect it after it has corrupted our sons, dishonored our daughters, subverted our institutions, and shed rivers of the best blood of our countrymen.

Sir, the time has passed for concessions to the slave power. Slavery has risked all to gain all, and now it must abide by the cast of its own die: and to us there is but one issue, dissolution and a recognition of the confederacy, or the utter and immediate abolition of slavery. There is now no middle ground. I believe now that since the days of Calhoun there has never been a middle ground. We have tried tenderness long enough.

For eighty years we have been compromising ; we have coaxed and petted ; it has availed us nothing. We have given the South the high places in our national synagogue, our kindness has never faltered, but, sir, it has been our ruin. We said to the South, we will not interfere with your pet snake while you keep it in the den you have provided for it ; we will not fight your nefarious institution so long as you keep it at home. Slavery shall not be interfered with in any State where by local law it exists. We would even permit the snake to crawl into and establish for itself a den in Territories common to both ; but because we insisted that it should not invade with its slime our own homes and take to itself every foot of the common inheritance it has rebelled. Why, sir, even as late as 1860 we of the North were a nation of compromisers, and after the ordinances of secession had been passed in several States, it is a question whether we would not have been willing to accede to all the demands of the South. Even the old abolition party had men in its ranks who were willing to make some arrangement by which the widening breach might be bridged.

Mr. Speaker, at that time few men in the North were found so radical as to be unwilling to compromise upon some basis, and a still smaller number who would insist upon no terms short of full emancipation.

But, sir, as the history of the past might have warned us, every pacific overture was rejected, and no alternative was left to the freemen of the North but war. How sternly that war has been prosecuted upon both sides history will bear testimony. And shall we be willing to end the struggle now until sufficient guarantees are secured that our people and their successors shall live for all future time without a constant fear that the smothered flame shall again leap forth and burn with tenfold fury ? No, sir, we must end this war now, end it for all coming time ; and we can only end it as we desire by so amending our organic act that slavery can never again be an element of discord among our people. Members upon this floor who fear that their constituency will not sustain them in voting for this measure should remember that they have a constituency coming after those whom they now represent, a constituency who will hold them to a more strict account of their stewardship than will the partial friends of to-day, and the execrations of that constituency will be heaped upon the man who now hesitates to aid in wiping out this stain and curse that has disgraced us so long. We want no timid men now. Our brothers and sons have poured out their blood upon fields made memorable by their bravery, and shall fear that some of us will not be returned to seats in this House lead us to hesitate in doing justice to our country in this the crisis of her destiny ?

Mr. Speaker, there can be no reunion with slavery—the day when such a thing was possible has passed. Sir, let us for one moment try to realize such a reunion. The first thing to be done under such a condition would be to enforce the fugitive slave law. But, sir, thousands of the slaves we would be called upon to return would be soldiers in the Union Army, men who had been engaged in fighting our battles. Our faith as a people is pledged to those men for freedom. They would be the wives, sisters, mothers and daughters of soldiers, and dare we submit to the rendition of that class ? The fugitives who have followed our armies from the plantations of the South have been the only loyal men and women it

found in its track, and shall we be asked in the day of our triumph to punish these our friends with one hand while with the other we reward the red-handed assassins who have endeavored to strike down our liberties? Sir, I can never bring myself calmly to contemplate the possibility of a reunion with the South which shall tolerate the further existence of slavery, much less one that shall restore it to its former assumed privileges. No, sir, we must either abolish slavery, or consent to see the Union of our fathers destroyed, its hitherto proud name become a hissing and a reproach, and its people no longer free.

Sir, there is but one compensation we can render to this country for the terrible sacrifices she has been called upon to endure in this struggle; that compensation is the entire abolition of the curse of slavery; otherwise the blood of our countrymen is shed in vain. We have seen it lurking and rankling in the veins of our body-politic for eighty years, until it has culminated at last in this terrible war, the most gigantic, and, upon the part of the South, the most brutal the world ever saw. Shall we now be willing to give it a new lease of power, new strength to renew its attacks? No, sir, we cannot, we dare not consent to such a thing. Were we to so far forget the lessons of the past as to entertain so base a proposition, we would be disgraced in our own sight and in the eyes of the world and of God.

But, sir, if we are to make emancipation effective and adequate to our national disease, we must adopt it boldly, resolutely, and at once. We must not only emancipate the slaves in the seceded States, but we must include the slaves of the border States, leaving no root of the accursed tree to spring up for the future to the peril of the country. And, sir, the measure now pending seems to me to be the only one adequate to the emergency.



47  
CHARGES OF BRIBERY AND CORRUPTION.

SPEECH

OF

HON. F. M. SMITH,

OF BUTTE,

REPORTED IN PHONOGRAPHIC SHORT-HAND, BY A. J. MARSH

IN THE

UNION SENATORIAL CAUCUS,

WEDNESDAY EVENING, JAN. 28, 1863.

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SACRAMENTO:

JAMES ANTHONY & CO., PRINTERS — UNION BOOK AND JOB OFFICE.

1863.



CHARGES OF BRIBERY AND CORRUPTION.

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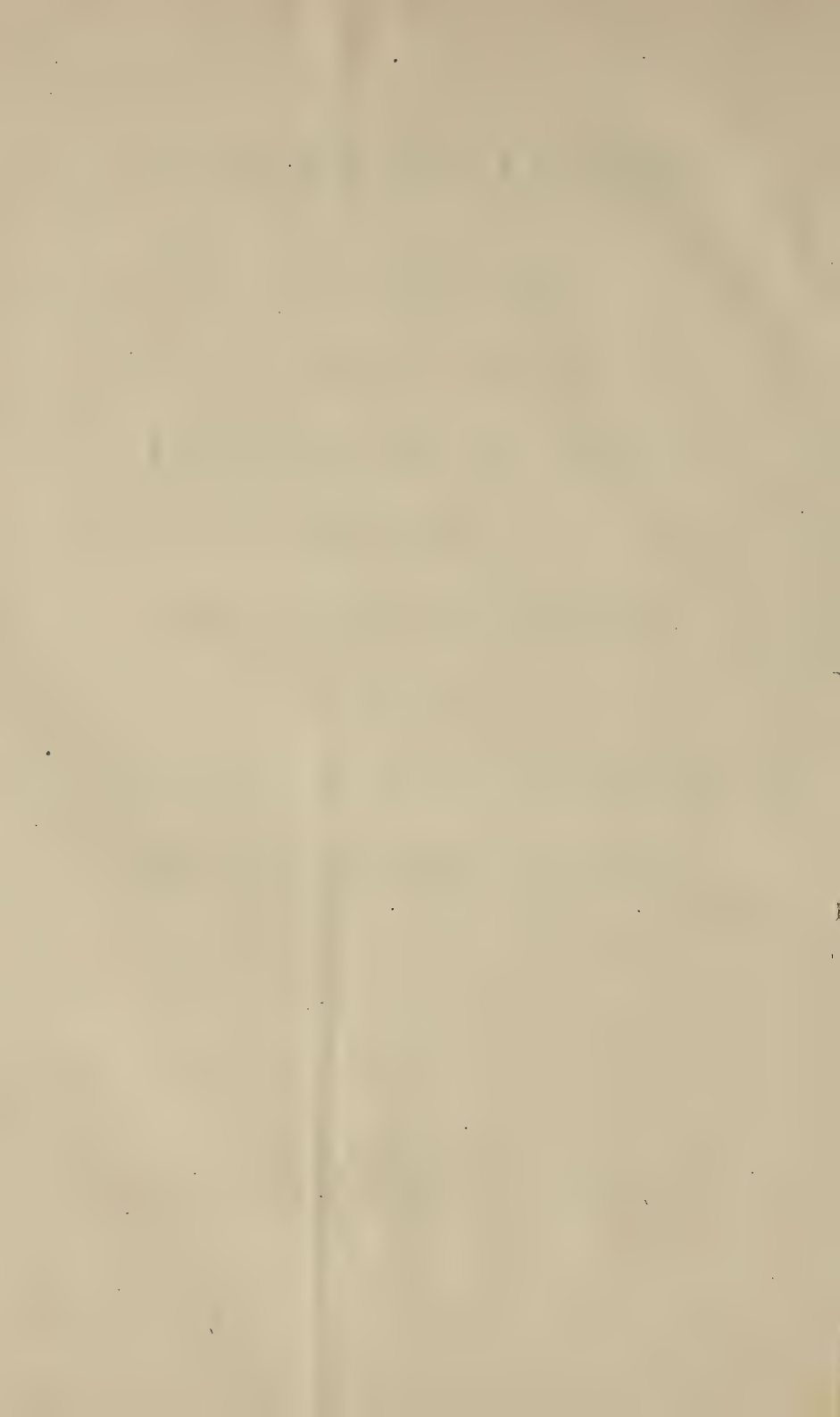
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## SPEECH.

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Mr. WARWICK, of Sacramento, proposed the following preamble and resolution :

WHEREAS, It has been rumored that certain members of this Caucus have been improperly approached with a view to influencing their votes in the nomination of a United States Senator ; and, whereas, charges of bribery and corruption, seriously affecting the character of a prominent candidate now before the Caucus have been made ; therefore, be it

*Resolved*, That a Committee of five be appointed, to consist of the following gentlemen : Messrs. Collins, Barstow, Cunningham, Dodge and Gunnison, to examine into the facts, and report the same to this House.

Mr. SEARS, of Nevada, moved an amendment to strike out all after the word "Resolved," and insert instead the words : "That we now resolve ourselves into a Committee of the whole, for the purpose of investigating the various charges pro and con."

Mr. AMES, of Mendocino, moved to amend the amendment by adding thereto the following words : "And that Charles Watrous be requested to appear before the Caucus and make his statement."

Mr. WHIPPLE, of Humboldt, made a few remarks, favoring an investigation by a committee to be appointed by the Legislature.

Mr. SMITH, of Butte, called for the reading of the resolution, and it was read together with the proposed amendments.

Mr. SMITH. I would inquire if any further amendment is now in order.

The CHAIRMAN (Senator Burnell, of Amador). I think not ; there are already two amendments—an amendment, and an amendment to that amendment—which is the limit.

Mr. SMITH. Well, sir, for me, then, permit me to say that I am in favor of the resolution as proposed to be amended ; decidedly in favor of the amendment. It having been intimated, in an affidavit read from that desk to night, that I approached Charles Watrous with an offer of my vote and services in behalf of Mr. Phelps for the position of Senator, it is right that I should speak to that resolution, and it is proper that I should be heard by this Caucus. It is due to me as one of your peers, it is due to me as a member of the Legislature of the State of California, it is due to your own honor, it is due to the credit of the State, it is due to the future hopes of the Union party, of which we profess to be members, that there shall be a full and complete investigation of every charge here made against the different candidates for this high position, as well as against the different members of this or the other body of our Legislature. And I earnestly hope that no snap judgment will be sprung here. I earnestly hope that this investigation shall continue, no matter how much time may be absorbed, until these charges shall be sifted to the very bottom, and until the truth shall be made to appear.

Now, sir, it was intimated the other night—and this it is necessary for me to state as one of my reasons for supporting this resolution—it was intimated that Mr. Watrous was inveigled into this matter by myself—that it was a conspiracy upon the part of Mr. McCullough, Mr. Gaskell and myself. That charge, or that intimation, I purpose now to answer, and I hope in this matter I shall keep perfectly cool, and treat the question with that consideration, with that gravity, and with that regard for the truth which the position I occupy demands of me.

Senator PARKS, of Sutter. Allow me to say, if the gentleman understood me to make any such charge against the gentlemen named he is mistaken. I refer him to the record ; he will not find it. I did not mention the names of any of the gentlemen whom he has mentioned. I have no objection, however, to his replying to anything that may have been said.



Mr. SMITH. I purpose to reply to these various charges in advance of the testimony, that the Caucus may determine whether or not I am to be credited, whether or not I am a man of truth. I deny that Watrous was inviegled. I deny that any conspiracy was concocted. But I do proclaim here, and to the world, and it is God's truth, that the interview between Watrous and myself was sought by him, and never dreamed of by me. I declare that I met him by the merest accident in the street—the merest accident so far as I am concerned. I am now willing to believe, however, that he sought the interview, and was on the watch for my appearance. I was on my way home at the time. Whatever I state here in the matter I am prepared to prove, and I ask that I may stand or fall by the truth of my statements. I was asked by him to dine with him at the Barnum Restaurant. I excused myself as politely as I could, but being urged repeatedly by him I went. On taking our seats a rambling general conversation took place. Thence the gentleman spoke at great length of his own powers and influence in the State—what he had done, and what it was in his power to do—saying to me at last that if I would give my vote and influence to Mr. Phelps—a declaration made openly by him—that he would place in my hands the sum of three thousand dollars, or where I might direct it should be placed; that he could put Judge Sexton out of the way; that if I had any aspirations for the District Judgeship I could have it; that if that did not suit me, and I desired that of the Supreme Bench I could have that. These offers, as God is my judge, were made without any intimation by me of the direction in which I should cast my vote; without any intimation of my choice or preference, much less any intimation that I was favorable to the election of Mr. Phelps, or that I could, under any circumstances, be induced to vote for him. I said to Mr. Watrous—and it was the only remark that I made—that I was the firm friend of Treanor W. Park, and desired his election, but that I did not conceive it to be my duty, as a legislator, to exhaust the entire session in efforts to elect any individual; that I had no particular objection to any of the candidates, but thought that either of them

would reflect credit upon the Union party ; and these were my honest sentiments. But, sir, I am free to admit that I discovered the game—that I discovered the plot—and I determined to give good heed and attention to what was said, and to guard well my own expressions, because I resolved then and there that should an offer be made to me, an exposure should follow that offer, be the consequences what they might be upon me, or upon the party to which I belong.

Now, sir, I hope gentlemen will indulge me in these remarks at some little length, inasmuch as I make them in advance of the testimony which you may bring—inasmuch as I am willing, I say, to stand or fall upon the truth or falsehood of the statements I am making. Now, upon this point of my interview with Watrous, I am aware that my word stands alone against that of a high Federal official. None but the all-seeing eye of God was a witness to that conversation, but if God Almighty would exercise the power belonging to Him, and loosen that man's tongue, and put into his heart honesty and conscientious motives, he never could be prevailed upon, aye, he would sooner fall in his degradation which he has brought upon himself, than to undertake to contradict the statement that I here make. But there is proof—and circumstances often speak stronger than oral testimony, stronger than mere words—there are proofs, and what are they, to meet this insinuation that I made an offer to him to vote for Mr. Phelps, for the sum of one thousand dollars, a charge which I pronounce before you and before my God to be as false as hell. What are the circumstances connected with this matter giving a denial to this statement if he dare make it? And I judge that he will from the intimation we have in one of the affidavits filed there. Immediately upon the breaking up of this interview I sought a conference with Mr. Park. I told him of the offer that Watrous had made. Would I have done that if I had advanced or made any proposal to Mr. Watrous? To come to such a conclusion you must either think that I am destitute of sense, or as base as a man well can be. I told Mr. Park of the offer made me, and here let me tell you that what I did was upon my own shoul-

ders, and it was not a plan of Mr. Park. I told him that I desired proof, as this interview would be renewed, that I had in my room a wardrobe placed, and that I desired the presence of two gentlemen who would come from my own county, men whose words would be taken throughout the length and breadth of the State. The proposition then came from me. The arrangement was made, the hour arrived, and Mr. Watrous, true to his instincts, true to his promise, came also. After a general conversation, as has been detailed by Mr. McCullough, I said to Mr. Watrous—and here is the circumstance to which I allude as the best evidence to corroborate my word; ye are men of sense—"Sir, how about that proposition you made to me yesterday?" Now, sirs, if I had made the proposition to him, or even held out a hope of it, would not he have met that question of mine by a remark somewhat qualifying its intent and purport? But no. To the question: "What of that proposition you made to me yesterday?" he answered directly, giving in detail, as it has been related by Mr. McCullough, and in part by Mr. Gaskell.

Now, sirs, I purpose, when the time shall come, unless a snap judgment shall be sprung by the prevailing power in this body, to prove the admissions of Charles Watrous upon this matter, if he dare meet me. If he pretends that any assertion has ever been made by me to him, or any other man, that I had taken or would take one dollar from any candidate, or from any man, for my vote for that high position, or for my influence or vote on any question in this Legislature, it is a falsehood. I defy, I court, I demand the proof upon any of those points. Further, sir, I deny ever having held out any intimation, except one coming from my own heart, governed by my own conviction, by my sense of duty, as to the men fitted for that high position; I say I deny making any other promise than that one governed by that motive. I deny ever having intimated to any man living that I would, under any circumstances, be induced to support Mr. Phelps. Let the proof come.

Further, sir, a gentleman has intimated upon this floor that the friends of Mr. Phelps were favorable to an investiga-



tion. Why this change? What has wrought this great change upon the minds of honorable men, not upon the masses, I do not mean them, but the fuglemen, the Sir Oracles of that candidate? What has wrought this great change within the last twenty-four hours? Last evening, opposition, even technical points, were as thick as hailstones on that side of the House against any proposition for any character of investigation. ["No, no !"]

Mr. NIXON, of Sacramento. Not from me.

Mr. PERKINS, of San Francisco (*sotto voce*). It is false, that is not so.

Mr. SMITH. There were some honorable exceptions, I admit; I mean the remark to be of a general character, and not to apply to all the supporters of Mr. Phelps. There were some exceptions to the opposition to investigation in this matter, but I recollect well, sir, that when Colonel Collins called attention to this matter it was with difficulty that he could be heard, such was the general cry from that quarter of "Call the roll!" "call the roll!" What has produced the change? To-night it appears that these gentlemen are anxious for investigation, but they come here with their affidavits prepared, thinking that the matter will be closed to-night, closed only upon the proof which they may submit. The gentlemen may find themselves mistaken. Now, sir, I ask, as one of your peers, that a full investigation shall be had. I have no fear of it; I court it; I demand it.

One word more, for I shall not trespass upon this House again. Whisperings have been over the town to-day, coming only from one quarter, that Smith has received sixteen hundred dollars from Treanor W. Park. I never received, nor was ever offered, a dollar, from Treanor W. Park. Whisperings again from the *honest* side of this House, from the *incorruptible* quarter of this Assembly, that Harvey S. Brown had paid me fifteen hundred dollars. Harvey S. Brown never paid me a dollar, nor offered me a cent. To test the truth of this matter, let these gentlemen be summoned. I, without any conference, without even a wish expressed on my part, will risk my reputation as a legislator and as a man on that. Let them come. They will step forward

and before God swear that what I state is true. Let the proof come.

Another rumor, too, which touches somewhat my pride, and therefore permit me to speak of it particularly—a rumor which touches my fealty to the Union party, of which I am a member. It is that Smith is a Secessionist, and has brought about this thing in order to split the Union party. It is true that all my days I have been a Democrat, and attached to the principles, the rule and the policy of that party. Throughout all my life, and far back beyond the day when I attained my majority, I have been attached to that party. True, I advocated the claims of Breckinridge in the campaign of 1860, and what little ability I possessed was given to that cause. I did it in the honest conviction of my heart. I did it because I believed that the platform upon which he stood reflected the very sunlight of the Constitution. And I held to that party, united with its destiny, up to July, 1861. In the Convention in my county, in June, 1861, I had the honor of drafting a set of resolutions, loyal in their character, pledging the faith of the party to the General Government, and indorsing its various policy. And without any pride on my part, without desiring to gain to myself any credit, I will say that these resolutions were met with considerable opposition, that a lengthy debate followed, and I claim that it was at least in part by my efforts that they were finally adopted. Having realized, as I fondly hoped, that the Convention or the party would be true to the Government, I continued with it till the State Convention of July 12, 1861, held in this city. That, sir, decided my future course. I left the party then, as I deemed it my duty to do, and from that day to this I have been united, with every sentiment of my heart, to the Union party. [Applause.] I have proofs here, living proofs, that will give the lie to this assertion, living proofs in this Assembly, men who will speak of the labor I have performed for that party, in that county which I have the honor in part to represent. So much for that. Now let us have the investigation.

Let me say one thing more, not to you who have voted for Mr. Phelps because you believed him pure—I grant that he is.

He is a man for whom I have had, and ever have, the most profound personal respect. I do not say of you, but I do say of those who have given direction to that party—who have been its Sir Oracles here—I say to you that you dare not that an investigation takes place. I say to you further, that if you will permit an open, fair investigation here, I will pile up proofs Olympus high against your party, proofs that shall sink you in the public mind so deep with political infamy that you shall never rise with that load upon your shoulders. [Applause.] I say let the investigation come, only let it be fair. Let time be given for counter-affidavits, for proofs to meet your proofs, and let the verdict rest with the people.

Gentlemen have said this expose ought not to come, that it would destroy the Union party. Sir, if avowed corruption and infamy are necessary to the life of the Union party, then I say, in God's name, let it go down. [Applause.] But purified substances do not sink; they rise. It is only the rotten, the foul and corrupt matter that sinks below the surface. I have yet to learn that an expose of fraud and corruption in a State or a party, or of prominent men in a party, will destroy it. Sir, I believe it will be the purification of that party, that the people will stand by this effort to purify that party from corruption. In conclusion, then, let the investigation come, from every quarter and from every man, against whom a single charge has been made, on whose fair character the least reflection has been cast. I repeat it, let the investigation be had. I repeat the demand, sir, let it come.













## O R A T I O N

O F

Hon. J. M. Smith,

O F B U T T E.

Delivered at Oroville, July Fourth, 1864.

Published by the Loyal Citizens of Oroville.

OROVILLE:

JAS. WAGSTAFF AND WM. DEMOTT, PRINTERS.

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# ORATION

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# ORATION

OF

## HON. F. M. SMITH.

*Delivered at Oroville, July Fourth, 1864.*

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MR. PRESIDENT, LADIES AND GENTLEMEN:—This is the natal day of American Independence. The Nation is eighty-eight years old to-day, and it still lives, with immortal hope radiating from its youthful brow; allowing no competitor to dispute its sceptre over a mighty ocean bound empire, nor yielding though a world in arms were congregated for its destruction.

If in the mysterious dispensations of an all-wise Providence, "that shapes our ends, rough hew them as we may," this great nation must die, it will then die neither of decay, nor of old age; it will die not as the old man dieth, sinking ingloriously into the grave, with his strength relaxed and powerless as an infant's, and seeking repose from the infirmities and burden of years. [Applause.] But if it must die, it will then die as the young giant dies in battle, with his mortal foes in heaps around him, stretched in death; like a young Sampson, with the temple of his adversaries crumbling and falling around him, while with all his herculean strength remaining, he tears away the pillars which support the edifice. It will not die alone, nor leave a rival living to triumph over its grave, in all the vast republic which it now owns and governs. [Applause.]

But this young great and giant nation will not die! It will continue to meet, as we meet to-day, to celebrate its birthday, for a thousand years to come. [Applause.]

Let us be cheerful, then, to day, in view of the past, and hopeful as to the future, while we join in the festivities of the occasion of the celebration of the birthday of the freest, the most generous and the most magnanimous nation that has ever had the story of its noble deeds told in the pages of history. And it will be my province to attempt to interest you for a short time, in recounting some of the



heroic deeds and immortal principles that have distinguished, and still attach to the character of the glorious nation to which we belong, on this fourth day of July, in the year of grace, one thousand eight hundred and sixty four.

For the glorious old *Fourth*, which our fathers loved, and which we love, has not been *divided*, and *will never be—it is all our own*. And Yankee Doodle, too, is not divided—it belongs to us—it is still the quick step of the army of the republic—it is still all our own; and those immortal strains peal forth to day as proudly and triumphantly as they did on the fall of Burgoyne, of Cornwallis, of Packenham, and of Pemberton! [Great Applause.] Is there a soul here to-day that does not swell with enthusiasm, when he thinks of the fact that the same old tune which has pealed forth its merry strains over the fall of so many enemies of the nation; and the same old flag, which has waved in triumph over so many foes surrendered, still both belong to us? If there is, we ought not to envy his feelings nor his affinities.

Forever live this great republic! Forever peal forth old Yankee Doodle! [Applause.]

Forever float that standard sheet!  
Where breathes the foe but falls before us,  
With freedom's soil beneath our feet,  
And freedom's banner streaming o'er us."

#### OUR FATHERS AND THEIR PRINCIPLES TRIED.

Nothing on earth is highly prized that costs us no sacrifice. Nor will any man make a sacrifice to obtain an object, the possession of which does not afterwards interest him. In proportion to the interest which a worldly good creates in the mind of the possessor, and in proportion to the sacrifices made to obtain it, may we estimate the value of everything of earth relating to man. But the worship of a virtue conveys the highest satisfaction the human mind is capable of entertaining. This results not only from the native loveliness of virtue itself; nor simply because of the inseparable connection between individual happiness and virtue, but rather because such a sublime worship requires the sacrifice of repose, of wealth, of friendship, and most of the natural inclinations of human desire, as opposed to the highest and most enlightened reason. Every virtue is the embodiment of a great principle, although every principle is not necessarily allied to a virtue. As we receive and embrace a principle only through the exercise of our reason, and as reason and love combine in the culture of a virtue containing great principles, so the highest condition of man is his unalterable adherence to a virtue which embodies immortal, soul elevating principles.

*Humanity is a virtue embodying all the principles of well regulated*

*liberty.* Our revolutionary fathers worshipped at this shrine more than any other people that ever dwelt in this world of trial and conflict. Theirs was the pure philosophy of Seneca—“*Homo sum; nihil humani mihi alienum puto*”—(I am a man; hence to me *humanity* is no alien.) Never did human judgment better understand than they the mighty principles of social and political liberty; never did mortals sacrifice so much in defence of those principles, or with a clearer perception of their peerless value to themselves, their posterity and the whole world. But if there is any one thing connected with the character of the founders of the republic, which should exalt them in our own estimation more than another, it is the fact standing prominently forth in their history, that the only freedom which they loved, and which they were determined to have, at the sacrifice of everything else, was the unrestricted *freedom to do right*. No other kind of freedom did they prize, no other kind would they have; and it seems that this is the only kind of liberty that is particularly obnoxious to tyrants. And they not only insisted that they themselves and their posterity should have the inestimable boon, but with unparalleled generosity, they invited the whole world to come and enjoy the rich heritage which they had purchased with their blood and treasure. It was a freedom everywhere, circumscribed by the restraints of wholesome and equal laws. They were the authors of the immortal sentiment that “*there is no liberty without laws.*” Not arbitrary laws; but laws founded in reason; laws adapted to the nature of man; not to restrain the exercise of the faculties of his mind and body in doing and seeking good. Such laws are never inconsistent with the highest development of human freedom. And by all that is sacred, we this day swear, that this kind of freedom—the freedom of our fathers—which consists in a sublime regard for and obedience of wholesome and equal laws, we will maintain and perpetuate throughout the republic. [Applause.]

We may form some correct idea of the value with which our revolutionary fathers prized their freedom, by reverting to the sacrifices which they made—not to obtain it, for they brought it with them and planted it in the virgin soil of this continent—but to defend it. Here we wish to add that by *freedom* we mean not only an unrestrained liberty to do right, but the universal extension of this privilege to every individual composing the commonwealth. For, there can be no true or pure freedom in a state without an equal distribution to and enjoyment of the benefits of good government by all its citizens; to secure which all must have an equal share in directing the government. These ideas of human freedom, more enlarged and liberal than were recognized by the British Constitution, which the necessities of self-government, self-reliance, and a community of in-

terests and destiny in a new country, guided by the dictates of enlightened reason, taught our fathers, brought them at last in direct collision with the prerogatives of monarchy, and the civilization of the old world. It was a conflict not of passion, but of principles—the initiation of the terrible strife between the old world and the new, which spread all over the Western hemisphere, and terminated in a blaze of glory for the *new*. (Applause.)

For one hundred years, to-wit: from the accession of Charles II to the Declaration of Independence, there was waged one continual conflict of a high intellectual and moral nature, between the founders of our nation and the occupants of the British throne, with scarcely an intermission, certainly without any repose during the reign of the house of Stuart and the house of Brunswick, until our final separation and independence. This was distinguished as a war on the one side of abuse, of petty persecutions, of commercial restrictions, and of the final and complete disfranchisement of our fathers of all their constitutional rights as British subjects; and on the other side, as a war of principle against arbitrary power, of weak colonists against an overshadowing empire, the proudest nationality on earth. In this remarkable struggle, the moral and political virtues and all the noblest powers of the mind of our fathers were schooled and disciplined during one whole century. The principles of this school of free men and patriots were their inalienable personal rights which they inherited from nature's God, and their political right of self-government; that is, to make their own laws, allowing simply a permission to the British crown, through its appointed agents, to execute those laws, the same as provided in the British Constitution for the government of British subjects. These were the rational principles and momentous issues of the American revolution.

But when war commenced in their defence, it terminated only in final separation and independence. At the beginning of our war of independence, the American colonies numbered three millions of souls. By the necessity of the struggle for their liberties, the principle of *unity* was adopted. At first this unity was but a confederation of States; it was afterwards consolidated into a *nation* by our glorious Constitution. Two millions, then, of colonists, poor in everything but virtue and courage, with a nation of fifteen millions, the richest and most powerful on earth, began the war of the revolution. It was a civil war;—on the part of the British Government and its allies, the tories, constituting about one-third of the population of the colonies, and the Indian savages; it was a war of slaughter, assassination and extermination. The whole fighting force of the patriots—those capable of bearing arms—never at any time exceeded two hundred thousand, and of these never could more than fifty thousand be equip-



ped with arms and necessary military supplies at any period, on account of the poverty of our patriot fathers. The Government of Great Britain, at different times during the war, employed one hundred and thirty thousand veteran soldiers and marines, with all necessary military supplies and munitions of war, and at different times put into the struggle about one hundred thousand Tories and savages.

For nearly eight years of mortal agony, the flames of war surged over the colonies from Boston to Savannah, in waves of devastation. It was a time that tried men's souls. Out of the throes and terrible convulsions of the war, which left every family in the wide land in mourning for the dead, arose the noblest constellation of heroes and statesmen that ever compelled the homage of mankind. In the cabinet and in the field, wherever opportunity was afforded for the triumphs of immortal genius, there stood forth the champions of human reason and human dignity. Washington, Warren, Sterling, Gates, Green, Lincoln, Putnam, Wayne, Morgan, Sumpter and Marion, and hundreds of heroic Generals—

"Among the few, the immortal names,  
That are not born to die"—

led on the unconquerable regiments of patriots, who often in defeat, but oftener in victory, through all that bloody struggle, defied the whole power of Great Britain to conquer and subdue them to the undisguised and infamous condition of political slavery. (Applause.) But if the indomitable determination and immortal courage of our small armies arrested the wonder and astonishment of the nations of the old world; the pure, classical, intellectual emanations and contributions to the literature of patriotism, that were poured forth from our Continental congress, composed of the Adamses, Jefferson, Franklin, Henry Jay, Livingston, and their compeers, excited the unbounded admiration of the world. Great while living, now sainted in heaven—immortal men! Your zeal in favor of liberty has gained a name that shall perish but with the glorious constellations of Heaven! When the sun of light and life shall go down to rise no more—when the earth and its inhabitants shall melt away, and the last peal of time shall echo along down upon the shores of eternity—then and not till then will the glory of your deeds cease to roll in song from human tongues! (Great Applause.)

Year after year, the fiery flashes of the artillery of battle and the conflagration of houses lit up the land. Year after year, like a rock, the armed band of our patriot fathers rolled back the invading waves of British power and insolence. The thunders of battle reverberated through every one of the thirteen colonies, from Massachusetts to Georgia. At Bunker Hill, at Saratoga, at Trenton, Princeton, the Cow-Pens, at King's Mountain, Eutaw Springs, at Monmouth, and

at Yorktown, which the fiery and deathless courage of American freemen rendered classic fields of desperate triumph of Liberty over Tyranny; amid the smoke and thunders of battle, amid blood and slaughter, amidst heaps of friends and foes stretched in death around them, our heroic sires wrested from the hands of George the Third the proud legacy of freedom for themselves and their posterity forever. (Applause.)

And shall we basely surrender this inestimable inheritance, the peerless boon which cost our fathers so much blood, and toil, and treasure? NO! a thousand times NO! And this response comes from the battle fields of Virginia, of Tennessee, of Georgia, and Mississippi. It is the dead speaking to the living—it is the promise of the living in memory of the gallant dead—it comes to us by sunlight and in darkness, from the east, the west, the north and south. It is heard above the roar of Niagara's mighty cataract—it is the echo of the Alleghanies rolled back to our own Sierras—it is heard everywhere over the land. And to-day, and here, let us swell the grand chorus. Let us say NO, and before high heaven swear that we will *never, never divide empire with traitors!* (Great Applause.)

"By the widow's wail, by the mother's tears,  
By the orphans who cry for bread,  
By our sons who fell, we will never yield,  
Till the rebellion's soul is dead." [Applause.]

#### CHARACTER OF THE GOVERNMENT THEY FOUNDED.

Our Government was founded upon the principles of the Declaration of Independence. It was *not* an *alliance* or compact of independent States; it supplanted and displaced a pre-existing alliance and compact—the confederation. It was a *government* acting directly and individually upon the people. The principal purpose in its formation was, not to achieve the liberties of the citizens against foreign subjugation—the previous *alliance* of the colonies had proved sufficient for that object; but the great cardinal idea in its formation was, the *unity*, the *nationality* of the whole—to perpetuate the freedom of the citizens of all the States. This nationality had not been secured by the old confederation, which had carried them safely through the war. It was to merge the several rival nationalities, existing in thirteen independent sovereignties, into one united and omnipresent nationality, too potent to be supplanted by *one*, or a minority of ambitious States; sufficiently powerful to preserve each from absorption or conquest by the other, and thus to perpetuate a common tranquility, a common liberty, and a common justice throughout one mighty republic. It was the *agent* of the people, not of the States, deriving its power, as did the States directly from the people. These views are clearly sustained by the Constitution itself, and by the contemporaneous exposition of the immortal "father of

his country," left us in his farewell address to the people of the United States.

This government, operating upon individuals extending over an immense area, and a large and constantly augmenting population, was by its founders wisely limited to great matters of general jurisdiction, chiefly concerning the relations of the people of each local government or State to other states and other nations; the principal work and major part of the details in governing the citizens, in determining the rights of persons and of property, being left to the existing State organizations; each State being equal to and independent of the other States in all its domestic concerns; each State being in this respect supreme as to another State; but all of them acting in submission to the national Government, *supreme* over all in regard to the general powers conferred upon it in and by the Constitution. This we find most clearly and forcibly declared in the second section of Article six of that sacred instrument: "This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, *shall be the supreme law of the land*; and the Judges *in every State shall be bound thereby*, anything in the Constitution or laws of any State to the contrary notwithstanding." And this supremacy as to *duration* is unlimited elsewhere by the instrument containing this grant of power from the people, and is consequently *perpetual*, "*ex vi termini*," from the very force of its terms. This supremacy is not a mere nominal or barren sceptre; it is charged by the Constitution with the execution of its own laws within its own jurisdiction, which is the *whole land*, its rightful and indissoluble domain. It has the *sole* right throughout its domain to levy and collect taxes, duties, imposts and excises; to provide for the common defense and welfare; to regulate international and interstate commerce; to coin money; to establish post offices and post roads; to define and punish piracies; to declare war; to raise and support armies; to provide and maintain a navy; to CALL FORTH THE MILITIA TO EXECUTE THE LAWS of the Union, SUPPRESS INSURRECTIONS and repel invasions, and other supreme attributes, with the express power "*to make all laws which shall be necessary for carrying into execution the foregoing powers*." Nor are these powers of supreme sovereignty limited by Article 10 of the Amendments to the Constitution, which reserve to the State respectively, or to the people, the other and minor "powers not delegated to the United States by the Constitution, nor prohibited by it to the States."

These other and minor powers are very necessary to prevent the centralization of all governing powers, too vast for proper exercise,



too powerful for the security of our liberties; but which are wholly misinterpreted by the advocates of a dangerous theory of States' Rights, which, they falsely hold, act as a limitation upon the exercise and execution of the constitutional and supreme powers of the General Government—while the truth is, the United States has its own grand and supreme sphere of action, within which there is no concurrent jurisdiction, and the States have their own respective spheres in exercising the minor powers of governing, which are subordinate to the supreme power. This splendid relation of the States to the supreme central Government is beautifully illustrated by our solar system, the several States, like planets in their respective spheres, revolving around an everlasting central sun, which sheds light and life, security and happiness, over all the vast parts of a necessary whole; each being indispensable to the other, and the loss of one being the inevitable destruction of the whole sublime system. Napoleon alluding to the formation of this Government by our immortal fathers, to indicate in his own forcible style his belief that the men were inspired by supernatural intelligence in its organization, declared that "the finger of God was there!"

The question now occurs, can a State lawfully dissolve, or withdraw from, this splendid political system—this peerless government? Can the supreme government lawfully defend and perpetuate its constitutional authority throughout the land, against the attempt of any of its parts to aggrandize itself by a conquest and usurpation of the jurisdiction accorded by the Constitution to the United States? Can the Government *coerce* the people, comprising the component parts, into obedience to the laws? All arguments we have ever heard, or read, assuming that it can be so dissolved, that the Government cannot so defend itself from a partial or complete conquest, or acts of secession, the same thing, are predicated upon abstract theories, drawn from tradition or other sources *outside* of the Constitution, such as what some contemporaneous writers explained the relations between the States and United States to be, or to have been intended. In a word, the apologists of secession deny the right under the Constitution to *coerce a State*. It is a sufficient answer, that the Government of the United States is by the Constitution empowered to act upon individuals, separately and collectively, and this power extends over the whole land, it is ~~so~~ extensive with its domain. This power, by sanction of the Constitution, goes into operation whenever and wherever there is resistance to the laws. Then it is that the constitutional provision comes into operation which gives all power to the General Government "*to execute the laws of the Union.*" As to the existence of the power and right to put down all resistance to the opera-

tion of the laws of the Union, throughout the land, and to compel obedience thereunto, there can possibly be no question. To deny it is to reject the plain letter of the Constitution. As to the policy of exercising the power in the now revolting States, this is only questioned by traitors and those in sympathy with treason. Those who are engaged in the works of treason naturally declare against the policy—

"None ever felt the halter draw,  
With' good opinion of the law."

Those to day engaged in the diabolical work of destroying this glorious Government deserve the frown of Manfred—

"But where his frown of hatred darkly fell,  
Hope withering fled and mercy sighed farewell."

and the invocation of Lucifer upon himself:

"Hail, horrors hail! and thou infernal hell,  
Open to receive thy new possessor."

#### SUCCESSFUL WORKING OF THE SYSTEM.

After the splendid machinery of this Government, devised by the sages of the revolution for the perpetuation of the principles of human freedom, for which they had so bravely fought and wonderfully triumphed, had been put into successful operation by the hand of the great Washington, the progress of the country in moral and material greatness at once surpassed all the fondest anticipations of the men who had originated this beautiful and sublime national architecture. It increased its population at the rate of four millions of souls for each subsequent period of ten years. It challenged the history of the nations for a parallel. It stood forth pre-eminently as an example of national peace, prosperity and happiness, created, solely by the natural influences of equal rights, equal laws, and equal justice and protection. The spirit of the nation was perfectly free. Freedom was the rule in all their political institutions, with but one exception, and that exception, it was believed, would be gradually obliterated by the operation of that overshadowing rule and sway of those free institutions. And here we wish to illustrate the distinction between the *natural* and the *conventional* endowments of freedom. In a state of perfect natural freedom, each person is free and independent of others, and has by nature the right to govern himself. These natural endowments of freedom belong to each and every human being. But there are other endowments of freedom, which do not exist by any natural law or right, which grow out of social condition, or from the organization of free and independent persons into political system and order, for the necessary security, happiness and very existence of the inhabitants, where the population of a country

is considerably numerous; and these we call *conventional* endowments. As by the natural law, no one has any right to govern or restrain another; so where such control by one person over others exists, it is presumed to flow from a political agreement or convention, whereby and wherein the political right to govern is given to those considered by the convention most fit and proper to administer the government.

In our system of government, those who vote and hold office constitute the governing portion of the American family; but the right to vote and to hold office are not the *natural* endowments of freedom; they are its *conventional* endowments. There can be no good government where these conventional endowments are not somewhat restricted; for, all are not competent nor fit to participate in governing others; those especially who, from want of intelligence, cannot govern themselves. But the best government is that where these conventional endowments, or franchises, are conferred upon all who, by intelligence, virtue and capacity, are best qualified to exercise them for the common good. Now, a perfect freedom of natural rights is not incompatible with the absence of the franchises of voting and holding office. No class of society is more free than the women of the country; yet from the inconsistency existing between their refined, timid and pure nature, and all public employments, not from any want of intelligence, they have not been endowed in our system with these franchises of freedom. Yet they are none the less free, and they exercise none the less influence in the direction of our social and political system. Minors are not permitted the exercise of these franchises, on account of their incompetency *as a class*, although many minors of twenty years are far better qualified to vote and hold office than many persons who enjoy this political dignity. These conventional endowments are of the inner working of our political system—and we cannot see how or in what manner it can be improved. But because the President of the United States, Abraham Lincoln—God bless him! [Applause]—and those who support the Government, have resolved as a necessary incident of the war, as just punishment of treason, as of right, to exercise the virtue of humanity in extending the blessings of freedom, with all its natural immunities and natural endowments, to every human being living and breathing the air of heaven, in this great republic, he and they are falsely accused of wishing to bestow upon the Africans, as a class, all those conventional endowments, franchises and privileges of freedom belonging to the governing class. The friends of the Government are determined to strike down every power brought to bear against the permanency of the Union. They have resolved that this nation shall



live, and that justice and humanity shall be exercised throughout the land. [Great applause.]

From the termination of the American revolution to the election of Abraham Lincoln, a period illustrated by the silent operation of the most liberal institutions and freest government ever constituted—with scarcely a ripple on the sea of our national tranquility during the intervening space, showing results of unequalled moral and material grandeur—this, to the lover of the philosophy of peace, is the most interesting span in the architecture of our national glory. This period is filled up with the conquests of the most superior civilization, such as the founding of colleges; the adoption of systems of popular education; the culture of religion and the erection of churches and temples; the building of towns and cities; the organization of new States; the extension of commerce and agriculture; inventions and discoveries in the arts and sciences; vast systems of internal improvements executed;—all displaying the native intelligence, activity and energy of the American mind, with its unrivalled and inexhaustable resources in the creation and extension of the empire of civilization. But, although this period affords the most interesting subjects for our contemplation, we cannot dwell in these bright fields of thought. For, there is a storm that darkens our national skies. It sweeps onward in its hurricane of wrath. It shakes the earth like the shock, of an earthquake, as it meets a resisting mountain. Its lurid glare casts a gleam of pallor over every countenance. It is the unnatural travail, in our political existence, of THE GREAT REBELLION.

#### THE REBELLION.

This hideous political monstrosity, this unholy, causeless rebellion, that has deluged the land with blood, and carried anguish, unutterable woe and desolation into nearly every family in the free States, is the work of slavery—the practical result of the terrible spirit instilled into the minds of its votaries. It is the offspring of unwilling nuptials between American liberty and African bondage. It is the struggle resulting from the logic of connections and relations between the *rule* and the *exception*, which we have mentioned as having been retained in the organization of our political system. That the repulsive antagonism, thus left in the body politic, would sooner or later break out into a bloody conflict, could only be a question of the growth of the two principles, side by side, in the same National family. Our fathers thought that slavery, the exception, could not increase; that the growth of freedom, under our genial system, would be so rapid as to overshadow the little exception of negro bondage; as some mighty oak draws the nutriment of the soil from every shrub beneath it, leaving but a sickly existence to every plant dwelling under its shadow.

But they unfortunately could not foresee the political power this antagonism of freedom would attain in our government. It would have been well for us had they been thus blessed, for then slavery would have been strangled in its birth, and much of woe and misery would have been spared our unhappy country.

Up to 1861 it was the moral of freedom doing battle against the encroachments of slavery, and not against that institution in its local habitation. It was but a contest of moral principles. No attack political or of war had been made upon slavery, though exacting, encroaching and overbearing it had become. Freedom stood silently by with unalterable resolution to hold to the bond of the Union, the constitution. Slavery was not satisfied to contend against the moral power with which it came in contact, and becoming restive in the struggle, began to exhibit its leading characteristic—a determination to rule—to hold political supremacy.

Freedom by its many compromises had enlarged and strengthened the power of slavery. Slavery growing intolerant and more exacting under these concessions, true to its instincts, claimed more—finally demanded and declared for empire. This, freedom resisted. Slavery invoked war, and with fire and fagot entered the very citadel of liberty, and by force of arms, determined to dismember the territories of the Union; to make a conquest of its largest and most fertile portion, and to aggrandize itself with the revenues, trade and commerce of the dismembered part, by constituting a separate nationality and a rival empire. It found the administration of Mr. Buchanan opposing no obstacles to its military preparations; his Secretary of War and Navy being directly engaged in the treasonable plot of disunion. During the last days of the expiring term of that administration, secession ordinances were passed by several rebel States; troops were raised and armed; the forts, arsenals and custom houses in their borders were seized; and everything was ready for the rebellion to burst forth, on the retirement of Buchanan and the accession of Mr. Lincoln. Such was the situation when the new president, elected in perfect conformity with the laws and the constitution, took the chair, first dignified by the immortal Washington.

The only question which the malcontents, prepared and ready for hostilities, proposed to Mr. Lincoln's administration for solution, was the simple and plain proposition—whether he would allow them peaceably to dismember the Union, and constitute a rival empire over more than one half of the jurisdiction of the United States.

So unwilling was the President to precipitate the unavoidable conflict, that neither in his Inaugural message, nor for a month after-

wards, did he deign an answer to the dishonorable proposition ; and, when he did reply, it was the mute response of a simple discharge of his constitutional duties, in sending a ship, not of war, but of provisions, to a beleaguered fortress in the rebel port of Charleston. As the Union ship appeared in the outer harbor, and turned its prow towards the fort of the nation the first shot fired from rebel batteries was sent on its message of hostility ; and the vessel silently withdrew from the range of the implements of bloodshed, and returned to bear the sad report to the supreme authorities of the Republic at Washington. Then burst forth upon that ill-fated fort an iron storm of war, from an hundred cannon, planted by rebel hands without opposition during days of peace.

That gallant band of Sumter, destitute of necessary supplies, seeing no hope of timely relief, with tears on their manly cheeks, surrendered the fort ; and the flag of the Union gave place to the stars and bars dedicated to the embryo Empire of slavery. The news of the fate of Sumter fell upon the ear of the nation, like a clap of thunder from a cloudless sky.

The humiliation of the flag of the Union—the absence of all decent pretence or justification for the act—the precipitancy with which the dread issue of civil war was forced on this free and fostering government of the people, penetrated the heart of the whole republic ; and more than seventy five thousand freemen rushed to arms to save the government from subjugation, and the country from dismemberment and a complete overthrow by a haughty and defiant slave power, armed and organized for aggrandizement and conquest. Money in untold millions flowed in a constant stream into the National treasury, the free and voluntary gift of the people. Their goods, lands, treasure, all, they would have given to the Government to vindicate its honor and integrity. Money did not enter into their estimate of the value of an endangered constitution and Union. Patriotism is now fully aroused—the noble and unselfish sentiments of the nation have triumphed. [Applause.] Never before did a government receive such moral and material support from twenty millions of freemen. The power and majesty of the government, inspired with new life, and raised by the upheaving of the mighty mass—the popular element on which it rests—towers over the momentous issues of the struggle, the very type and image of Omnipotence itself. Conscious in its strength and justice of its cause, it has gathered its inexhaustible resources for the conflict, with a calm dignity, that gives assurance to the whole world, that it is master of the situation. Five hundred thousand freemen are now in the field determined to do or die for the Union. Brave men ! patriots all ! A rescued country—



freedom triumphant will be your reward! The hopes and homes of millions, the constitution; earth's best and greatest government, all, all, have been committed to your protection. March on, march on! the victory shall be yours! [Applause.] A nation's gratitude will hail the triumph of your arms! If in the progress of the war, thus forced upon the government for the preservation of our nationality, any great mistake has been made by the Administration in conducting it, the mistake consisted in underrating the power and preparation of the material forces engaged on the side of the rebellion. But experience soon corrected this mistake, and the proper remedy has been thoroughly and efficiently applied.

We have not time, nor do we propose, to give a correct history of the rebellion. Its history will be faithfully written when it is ended. Its vast schemes and vision of empire and dominion has, in the progress of three years of war, been wonderfully abridged and curtailed, by the irresistible courage and self-immolating patriotism of the Union armies. The territory it first held and embraced extended from the Potomac, the Ohio, and the Missouri on the north, to the Gulf of Mexico on the south; from the Atlantic on the East, to the Rio Grande with indefinite extension on the west. Its military unity was one year to day divided in the centre by the fall of Vicksburg, and the re-opening of the Mississippi, by that "furnace of affliction" for rebel armies—that "devouring scourge" of slavery's battalions—the persistent, EVER PRESSING, NEVER RESTING, EVER-CRUSHING THUNDERBOLT OF WAR—ULYSSES S. GRANT. The great States of Missouri, Kentucky, Tennessee and Arkansas, have been torn forever from the rebellion's grasp. Nearly the whole of Virginia is forever redeemed. Sherman is tearing away at the very vitals of the rebellion in Georgia. Steel holds Arkansas securely. Canby takes Louisiana safely into his charge. An insignificant army of about twenty thousand rebels roams somewhere west of the lower Mississippi—separated from further rebel support by an impassable river and an intervening space of hundreds of miles. Two armies alone, containing the last soldier the rebellion can ever raise, are fighting not for success, but simply to delay the inevitable period of their annihilation—these are the remnants of the rebellion, gathered from every nook and corner of its wasted dominions, now commanded by Lee and Johnson. These two armies, with their limited resources in supporting distance of them, comprising not to exceed two hundred thousand, constitute the whole military power of the rebellion, which commenced its work of ruin, three years since, with seven hundred and fifty thousand men. How long can these two armies, grappled and held to constant battle, by the armies of Grant

and Sherman, which are replenished by recruits as fast as needed, endure the game of devouring war, initiated by that earnest and insatiable "leech" of rebel armies, the inextinguishable Grant! This unnatural and unholy rebellion is fast approaching its bloody termination. War is the science and art of human destruction. It is the terrible work of men killing each other.

No man should ever become a military commander, or follow the business of war as a profession who does not understand the science or is too tender hearted to put his knowledge into execution when necessary. When the slave States determined to divide our empire, and raised, armed and equipped armies, they meant war—the slaughter of the defenders of the Union. They have always done their work in sober earnest to the fullest extent of their ability. General Grant is the first commander of the armies of the republic, who has shown the same determined earnestness in this work of war. He has infused his own spirit into all our armies. He has gone to work with terrible zeal. Like a consuming pestilence he clings to Lee, who vainly tries to throw off this destroying angel, executing the decrees of justice upon traitors in arms. Inspired with his awful mission, Grant seizes hold of his antagonist and never relaxes his terrible grip. Lee falls back to escape such intimate connection. Grant with redoubled energy of purpose keeps up this close, this alarming relation. If Grant loses immensely, it is not contrary to his expectations, while he inflicts proportionate depletion upon his antagonists. He has set out to capture or destroy two hundred thousand men, comprising the rebel armies, all the force the rebels can ever put into the field against the legions of the republic, and this work he will inevitably accomplish. (Applause.)

Soon this horrid, this unnatural war will be over. The armies of the republic are certain to triumph. God has so ordered it. Grant will accomplish it. The "coming man" is now in the field. The army has a leader worthy of its confidence—the Government a patriot deserving of its highest trust. [Great applause.]

We hail with joy the near approach of peace—of the peace that will bring with it the triumph of freedom; that shall disenfranchise and forever liberate this great nation from the curse of slavery; of the peace that shall give our country that place among the Governments of earth that God designed a free republic to occupy—great in moral power—liberal in its political privileges. [Applause.]

We are told, by the apologists of this rebellion, that a nation can derive no glory from a civil war. This depends entirely upon the character of the issues involved and the conduct of the struggle.

It is always becoming to defend with life and property a noble

principle ; and the fame of those engaged in its defence is measured by the courage and devotion they exhibit to the world. There has been no denial from any impartial source, that the armies of the Union have been fighting for the perpetuity of free institutions. The fathers of our revolution taught us, their descendants, in the most solemn language that human lips could utter, to hold and guard these institutions as a special, sacred trust ; and to defend the Union, as a son would the honor of his mother. Every citizen in the free States, especially, was thus taught from childhood ; and the impression thus made is as enduring as immortality. This fact explains the cause of that wonderful devotion and persistent courage, in defeat or in victory, which have distinguished the soldiers of the Union in all the stages of this momentous struggle. Nor can we discover any moral difference, in staking life and fortune in defence of the "sacred trust," whether the conflict has to be maintained against the invasion of a foreign foe, or the bloody insurrection of internal traitors. In dying for one's country, there is a sweetness and a moral grandeur ; whether the fatal missile of death is received in repelling the invaders, or in suppressing a more dangerous foe, the domestic traitor. Where lies the difference ? The devoted soldiers of the Union deserve imperishable renown. We can never show sufficient gratitude to our country's defenders. To the living among them, let it hereafter be a sufficient passport to the highest honors, that they valiantly fought in one or more of the terrible battles of this war for national preservation. Let the memory of all the noble dead, who have fallen in this mortal sanguinary conflict, be perpetuated to the remotest ages, by our monuments and historic records. They have filled the measure of fame. Martyrs to the sacred cause of liberty, they acknowledged the right of their country, in its hour of need, to devote them to danger and to death ; baring their naked bosoms to the iron storm of battle, they offered their lives a willing sacrifice for the salvation of the nation.

"And oh, if there be on this earthly sphere  
A boon, an offering, Heaven holds dear ;  
'Tis the last libation Liberty draws  
From the heart that bleeds and breaks in her cause."

The deep wounds which the Great Rebellion has inflicted upon our beloved country will be soon healed. The blessings of a restored Union, like the showers of heaven, will refresh the land, burnt and wasted by the consuming flames of war. But what infamy is reserved for the active agents in this wicked attempt to perpetrate the greatest crime of the age—the destruction of a great, free nation ! The rivers of blood that have been shed ; the misery, the unutterable woe and devastation spread over the land ; the homes made desolate ; the



widows and orphans bereaved of their natural protectors; all this fearful work, and more, will be charged by a faithful history, through all coming time, upon the traitors, their aiders and abettors. The fate of the Tories of the revolution awaits them.

"Oh for a tongue to curse the slave  
Whose treason, like a deadly blight,  
Comes o'er the councils of the brave,  
And blasts them in their hour of might!  
May life's unblest cup for him  
Be drugged with treach'ries to the brim—  
With hopes that but allure to fly,  
With joys that vanish while he sips,  
Like Dead Sea fruits that tempt the eye,  
But turn to ashes on the lips!  
His Country's curse, his children's shame,  
Outcast of virtue, peace and fame;  
May he, at last, with lips of flame,  
On the parch'd desert thirsting die,  
While lakes, that shone in mocking nigh,  
Are fading off, untouched, untasted,  
Like the once glorious hopes he blasted!  
And, when from earth his spirit flies,  
Just Prophet, let the damn'd one dwell  
Full in the sight of Paradise,  
Beholding heaven, and feeling hell!"

The great and good of heaven and earth are looking with breathless interest upon our conduct in closing up the struggle. There must be no yielding now. The conflict must go on until the imperilled principles of freedom and justice triumph. There is but one great and paramount issue—and that is *the permanency of the republic*. Let all other issues be subordinate to this. "The hour cometh and now is" when every man must take his stand for or against the Union. This mighty struggle is for national existence. Freedom is on the march the world over; let it not halt or retreat on this continent. Let us again, and yet again, resolve that this Union shall be preserved. Yet a little longer, and the victory will be with the army of the republic. Yet a little longer, and our nation will go forth greater and more glorious than in the past. Then will this unholy war mark the greatest epoch of history; the *palingenesis* of Freedom, as it comes forth glorious from the struggle of a faithful, righteous and mighty nation. (Applause.)

1870

1870







S P E E C H

OF

HON. F. M. SMITH,

SENATOR FROM BUTTE AND PLUMAS,

ON THE

REPEAL OF THE SPECIFIC CONTRACT ACT,

DELIVERED IN SENATE OF CALIFORNIA,

JANUARY 24, 1866.

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SACRAMENTO:

H. S. CROCKER & CO., PRINTERS, 92 J STREET.

1866.





SPEECH  
OF  
HON. F. M. SMITH,  
SENATOR FROM BUTTE AND PLUMAS.

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MR. PRESIDENT:—In advocating the passage of this bill, it were vain for me to disguise the fears I entertain of its ultimate fate. I cannot but recognize the great power arrayed to defeat what seems to me to be the wish—the demand of the people—that the Specific Contract law be repealed. I apprehend that this power may triumph. It has resolved to do so, no matter at what sacrifice; to do so, though the commonwealth be involved in ruin. That power is the monopoly of capital that sits enthroned, like a very despot, between the pillars of the Golden Gate of the Pacific. Whatever may be the final result; though the voice of the people, demanding to be lifted up from the desolating wave overwhelming their interests, and to have an equal chance for prosperity, be again overcome and hushed to silence, still I am as determined as heretofore, to be heard in their behalf. The Specific Contract Act should no longer remain upon the statutes of this State. First—Because it is unconstitutional. That it is in direct violation of a law of Congress; that it nullifies the authority of the United States, and is altogether an act of bad faith on the part of this State towards the Federal Government, no sound, legal mind will deny. Upon this question the decision of the Supreme Court of this State, stands alone,

unsustained—it meets with no judicial concurrence in the land. Its opinion is completely overthrown by the able decision of the Supreme Court of the State of Nevada, and the unsoundness of its doctrine completely shown by the unanswerable opinion of Supreme Bench of the State of Michigan.

The views I had the honor to express upon this point, during the last session, have been strengthened by subsequent examination. I do not propose to discuss this branch of the subject again.

The Specific Contract law should be repealed, in the second place, because, by virtue of its provisions, it gives the power to centralized capital to work the exclusion of the currency of the Nation from free and active circulation among the people; since, by virtue of its provisions, capital can determine the character of our circulating medium, and declare what may, and what shall not be used by the people in payment of their obligations. It should be repealed, because it in effect adopts gold and silver to the complete exclusion of an equally safe, more convenient and less expensive circulating medium; a *currency* sanctioned by National authority, bearing equally its impress of sovereignty, and founded upon the inexhaustible wealth and good faith of the Nation; a currency adopted and in use by the people of every State in the Union except upon this Pacific coast.

It should be repealed, because, in its operation, *it shuts out all competition in the use of money*; thus strengthening and making permanent the power of the gold dealer to determine the rate of interest, and the character of securities for loans. It should be repealed, because its direct effect has been to drive away from us, during the past twelve months, fifty thousand of our industrial classes. Its continuance as the law of the State will not only increase the outgoing tide, but will prevent the flood of immigration setting towards our shores.

For the development of the great resources of our State, we require that capital shall be made accessible to the people; and the continuance of this law will, in effect, deprive them of this character of money and fasten upon them high and ruinous rates of interest. The present system affords no encouragement to home manufactures; it does not propose to give any facili-

ties for that purpose ; it is not within the functions of individual banking to do so ; individual banking is too selfish, its interest is too high, its loans too short, and its whole policy and tendencies are opposed to credit, the very life and soul of enterprise. The great source of profit to the banker lies in keeping up and increasing importations from our Eastern cities ; and hence it does not belong to their system to encourage and foster home industry in manufacturing any of the necessities of life. And the motive power forcing this purpose of our capitalists upon us, is the Specific Contract Act. For this reason this obnoxious statute should be repealed. I have assumed that the Specific Contract law prevents the National paper currency from circulating freely among the people, in their ordinary transactions of trade and labor. I shall endeavor to prove the proposition.

The capital of the Pacific slope is lodged in San Francisco ; comparatively there is little distributed among the people. It is concentrated at that commercial emporium, and her citizen-bankers hold the monopoly. Her importers and commission merchants have also the complete monopoly in the conducting of trade. Unlike New York, San Francisco has no Philadelphia, Baltimore or Boston to share with her the trade and commerce of the Pacific ; in a word, that city has a most absolute monopoly of trade and capital, and can and does dictate terms upon which either shall be used and prosecuted. All great loans are made at that point, and from that city as a radiating center all the commodities of life are distributed. The transactions in trade, all obligations running to the merchant, and all contracts for loans of money are made directly under the provisions of the Specific Contract Act ; and in the performance of the engagements so entered into, arises the necessity of like demands at all the minor distributing points, either as to the use of capital or the exercise of trade. The power thus centralized permeates the entire State. Its existence and exercise at the center compel corresponding action throughout the whole area of the circle ; and the warrant of authority for the exercise of this power is the law itself. So long, then, as this law prevails, no other character of money than that directed at the center of capital and seat of monopoly, can attain any great degree of



circulation. With this law in operation, all other legislation looking to the introduction of the paper of the Nation will be wholly inoperative. This vast monopoly of wealth and power, deriving all its vitality from the sole and exclusive use of the metallic currency, must be destroyed, or the tributary parts must expect to taste its legitimate fruits, in the future as in the past, exorbitant interest and extortionate security—with the constant drain and decrease of the metallic currency in our midst and no other to supply the vacuity. But, we are told that the National currency is not only *not* excluded from circulation, but that it even maintains a higher value here than in the commercial cities of the east. We are thus assured by the Chamber of Commerce, in an address recently issued and put in circulation by that intelligent body. I must say that this statement strikes me as somewhat remarkable, for the reason that it is an admission that our citizens are dealing in money without gain—that they are throwing back upon the Eastern market currency without profit to themselves. Capitalists are entitled to great praise for their magnanimity in nobly aiding the Government, to their own injury! That the National currency finds its way to our market is not denied. But no sane man will assume that it circulates among the people of this coast in the ordinary transactions of our citizens. It is here an article of commerce merely, and the price is regulated by the supply and demand. Let our market be pressed, let the supply exceed the immediate necessities of commerce, and in the absence of a demand for it the price at once declines. As the people have no part in its circulation, the gold dealer can raise or depress the price of it at his own pleasure. What are the objections to the adoption of the National paper currency? We are told that it is an irredeemable currency, liable to inflation and consequent great fluctuation in price, tending to produce corresponding elation and depression in trade, leading to wildness of speculation that would end in bankruptcy. That there is a difference in value of our paper currency as related to gold, is by no means remarkable. The very condition of our country, from which arose the necessity of the Government issuing its paper, was well calculated to produce doubt concerning the results of the experiment, and to engender distrust and want of confidence

in the ability of Government to provide for its redemption. Furthermore, the vast amount of outstanding issues of legal tenders and the new issue of National bank notes, instead of diminishing, added to that want of confidence and apprehension that Government would prove unable to so control and contract as to bring its paper to a specie basis. These are among the reasons which tended to create the margin of value that now exists between gold and our National paper currency.

The real cause, however, may be traced to the power of concentrated capital. Contraction and expansion are elements completely under the control of the gold dealer, against which the Government, as in duty bound, is now providing. I can see no danger of inflation, since the issue of the currency is completely under the control of the Government, the policy of which as lately announced, is to bring us back to a specie basis as rapidly as possible, without in the least impairing the present admirable system of banking, or restricting and paralyzing the energies of the country by forcing it into an unmixed and pure metallic currency. The present National banking system has become one of the great leading features of the present and future of our country. Established as it is upon the inexhaustible wealth and good faith of this great nation, with confidence fully restored, and with the fruits of peace once more completely with us, the time is not far distant when this paper, bearing upon its face the impress of sovereignty, will pass current throughout the civilized world.

The Controller of the currency referring to the National Banks, says :

"Although of comparatively recent origin, and yet in the infancy of its development, the National banking system has become thoroughly interwoven with all the interests of the country. Not only the stockholders in the National Banks, but every member of the community has an immediate interest in the stability of a currency which forms the medium of exchange and value, not in isolated sections of the country between particular classes, but throughout the length and breadth of the land, and by every citizen of the Republic. And this system, so ramified and so essential to the prosperity of all classes, is based upon the National faith and credit as its chief cornerstone, and can only exist as that credit is maintained intact."

And again :

"Whatever hostilities the National banking system may have encountered in its first inception, it is no longer denied that it has intrenched itself strongly in the feelings, as it has commended itself to the convenience and interests of the whole people. Coming into contact with local prejudices, and assumed to run counter to private interest, it was natural that its practical operations should have been regarded with jealous suspicions. It is not among the least of the triumphs of the system, that in a period of war, and monetary disturbances, caused by the gigantic requirements of the Government, it has stood the test of practical experiment in the most satisfactory manner, vindicating the partialities of its friends, and overcoming by its beneficial effects the hostilities of its most determined enemies."

That the system *in se* engenders a spirit of unreasonable speculation cannot be maintained by any process of sound reasoning. Who are they that oppose the free and active circulation of our National currency, and why do they oppose it? While in a sincere and honest inquiry after the truth, the mind is never satisfied because a majority entertain the views that are the most congenial to its opinion; while the logical *argumentum ad hominem*, never produced a conviction of the truth of any given proposition, we are not in the least intimidated by any suggestions of the opponents of this bill, that the majority of the people of the State are in favor of the continuance of the Specific Contract Law. In denying this, it is simply necessary to state that the people, and, as I have no doubt, a large majority, wherever they have given any instructions to their members of the Legislature, have almost invariably instructed in favor of the repeal of that law. Certainly popular silence affords no indications of the will of the people being in favor of the continuance of the law. But who are the active opponents to an introduction of our National currency as the general circulating medium, and the establishment of a well regulated credit system in the State, and why their opposition? The number does not exceed four hundred; four hundred men have, by united effort, and for their own profit, determined to maintain an exclusive metallic currency as the circulating medium, though the State become depopulated and bankrupt by their policy.

The supporters of the Specific Contract Act may be divided



into two classes—the money-lender and the importer. The banker opposes the National banking system because he cannot compete with paper; because the establishment of National Banks would present facilities for obtaining money upon securities now denied, and would reduce the rates of interest. The high rates of interest now charged in this State are enough to impoverish any people; no business can support it; no people can prosper under it. The corporation of a National Bank can furnish money at seven per cent., and then realize a profit of twelve per cent., as they realize from the Government six per cent. per annum on the deposits upon which their issues are predicated. It is not remarkable, then, that our bankers war against the system. Let it be adopted by our people and the gold dealer's occupation is gone. The reason of the opposition of the importer and commission merchant lies in the fact, that they are not only making a fair profit on their wares through the regular channels of trade, but are adding to it the greater profit of the difference of exchange. True, the people have to suffer for this, but that is no matter to the importer, so long as he is adding untold wealth to his coffers. Since the adoption of paper currency by the Government, over one hundred million dollars have been made in our commercial metropolis out of the difference of exchange. What has become of this vast amount of money? It has found its quiet place of deposit in the safes and vaults of our bankers and importers.

It is not a matter of wonder that these two classes cling with unyielding tenacity to the present system. It would be surprising if they quietly acquiesced in the introduction of a currency accessible to the people, afforded at low rates of interest. With them the temptations to acquire wealth are too great to surrender to the demands of the people for a more equitable order of things. They will not relax their hold without a long and arduous struggle to retain it. The manner in which it was resolved to maintain a purely metallic circulating medium on this coast is worthy of note. Upon the issuance of legal tender notes by the Government, a meeting of bankers and importers was held at San Francisco, to determine what should be the character of our currency. At that conference it was resolved to reject the National paper, and to deny credit to

all who should pay their past obligations in that currency. It was further determined to publish such delinquents. The newspapers of the State bear testimony that the latter resolution has been most faithfully observed; for those who presumed to pay their obligations with that which Government solemnly declares shall be received as a lawful tender in payment of all debts, have been held up to the scorn of the public. These honorable gentlemen, at that precise period of time, were largely indebted in our Eastern cities, and *their* obligations were created when gold and silver were the only tender recognized. Did they discharge them by payment of gold? No! With gold ruling at two hundred and forty they purchased the National paper, and with it paid their Eastern creditors, and they were neither denied credit for so doing, nor published as having repudiated the moral obligations of their contracts. I do not complain of this; I only wish to signify my disapprobation of that wanton disregard of the rule of fair dealing, which they enforced by social ostracism in this State.

The advocates of an exclusive metallic currency tell us that we have already an abundance of capital, sufficient for the developement of the resources of this coast, and that it can be procured at low rates of interest and upon reasonable security. This assumption, even if true, does not meet the proposition that we require a more convenient kind of money, harmonizing with the balance of the nation. But this is merely an assumption not warranted by the facts. There may be large amounts of capital in the vaults of our resident foreign capitalists. Of this I have no means of determining, except to receive as true the statement that such is the case. I propose to argue from this stand-point,—that the amount of money in active circulation is wholly inadequate to the wants of the people. The entire amount of metallic currency circulating in this State does not exceed three millions—it is estimated by all well informed persons at two millions. Will any one assume that this amount is sufficient for a population so enterprising; that this amount is equal to the demand for our railroad enterprises; that it is adequate to the development of the vast resources of this State? No one will hazard so absurd an assumption. But I am told that any amount of non-active capital can be procured

of our home bankers,—all that may be necessary to the agriculturist, the miner, the operator, in fact, for the furtherance of every scheme of public utility. I run no risk in denying this, for it is a fact generally admitted—I believe it is not denied save by the bankers, that not a dollar can be had except upon city securities, or the hypothecation of colaterals, at the rate of three dollars in value to the one borrowed. Let the agriculturist who desires to improve his farm, the miner who is solicitous of developing his claim, or the operator who has some public enterprise in view, make the experiment, and he will at once obtain a striking illustration of the truth of my statement. It may be said that capital cannot be procured, for the want of adequate securities. That the newness of the country, the unsettled state of land titles, and the general uncertainty in business transactions, outside of our commercial metropolis, are the substantial causes of capital being restricted to the limits of that city. I deny the proposition, and assert that no State in the Union can advance higher or a safer character of securities. The assessments of property in the interior counties; the payment of not less than two millions of dollars State and county taxes annually by the people,—the yearly products of our farms, vineyards, and mines, convey their silent substantiation of my position, and an overwhelming refutation of the opposite theory. What the people alone want to ensure their prosperity, is the use of cheap money, capital easily accessible, competition in the loan markets created by a credit system; and all adequate securities can be given by a people capable of paying two millions of annual taxes. Besides this they have been able to pay a higher price for all the articles of consumption not produced by themselves, prices manipulated by the constant monopoly of articles at the Golden Gate metropolis to an exorbitant degree, than any other State in the Union; and have in addition given away in charities to the sick and wounded soldiers of the Republic during the last two years of the war for its preservation, more than one million two hundred thousand dollars.

What such a people, capable of producing to such an extent by the use of the property they possess, most imperatively need to restore the former prosperity of the State, is more money and lower rates of interest, impoverished as they have



been by the constant drain of capital from their midst. The real cause of distress and general exhaustion, which are now preying upon the vital energies of the State, lies in the scarcity of capital and the exorbitant rates of interest demanded. With a sufficient supply of capital seeking investment, the character of our securities, if defective now, would be enhanced, simply because the interest both of the lender and borrower would correspond and combine in increasing the value of the securities. In that competition among the lenders, created by the great abundance of capital, not only would the rates of interest necessarily decrease, but the security could be hypothecated for a greater amount, and other securities would be readily taken; and still payment of the interest upon those securities would be more certain than the payment of the present high rate of interest. What more particularly gives value to the security, is the certainty that the interest will be punctually paid. Nothing will so much conduce to such certainty as the reduction of the rate of interest. The ability to pay the principal is also increased in proportion to the decrease of the sum required to be paid for the use of the principal. It also establishes a friendship between the contracting parties, often more valuable than mere security upon personal or real estate; a friendship resulting from the fact that there is an accord of interest between the lender and borrower. It is also charged that the substitution of paper currency for gold would prove ruinous to the industrial classes. Upon this point I desire to quote from the address recently issued and most kindly distributed in both branches of the Legislature by the Chamber of Commerce of San Francisco, as follows: "Whilst the necessities of life and all merchandise, being influenced by the laws of supply and demand throughout the world, will rapidly advance in price in proportion to the abundance of the paper money on which their value is expressed, this rule applies but imperfectly to the price of labor." This proposition asserted by the Chamber of Commerce, resolves itself into this: That whilst the substitution of paper currency for gold would advance the price of all the commodities of life, the price of labor would remain stationary.

This mode of reasoning may control the class of men who can be moved by music and torchlight processions to do the

bidding of capitalists, but its fallacy is altogether too apparent to obtain the endorsement of intelligent minds. *The same law that control the one controls the other*—the law of supply and demand. Will these wise men tell us, why it is that under the present metallic rule, *labor has been, and is constantly depreciating, whilst the commodities of life are rapidly advancing in price?* This state of things seems to have wholly escaped their searching investigations. It is, nevertheless, an undoubted fact that labor has fallen off at least one-third in value during the past two years, and is still declining. The reason of this depreciation of labor seems so obvious to my own mind, if the existence of the fact be granted, that I am freed from the least shade of a doubt in regard to it—it is *the absence of necessary capital from the State, and the high rates of interest*, which consume the profits of the most remunerative labor. Labor is exceedingly sensitive, flourishing only in the sunlight of social prosperity; and it is the first to indicate, by retiring from the struggle, when poverty and failure spread over the land their withering influence. The high price of labor always and infallibly indicates an advanced state of financial prosperity, and it depreciates with every stringency in the money market. It is developed only by encouragement, and will not work where there is no pay. It has never been fostered as in the United States, and could never have been thus encouraged under any other system than that of a mixed currency—paper money convertible into gold whenever required. Let us then examine into the condition of the laboring classes in this State, and determine whether it would not be altogether improved by the adoption of the National currency. Under the present exclusive gold and silver rule, our laboring classes are not employed one-half their time, and their wages are variable and constantly depreciating. Without any intention of reflecting unjustly upon their condition, we may truly assert that they are poorer and more dependant here than in any other portion of our country. This is not owing to an absence of disposition on their part to seek employment. It is because there is no demand for their labor. With the fairest climate in the world—soil the most productive—mineral resources unequalled, our population find but uncertain employment and variable wages. It is better to have constant

employment at remunerative rates, than to be employed but a fractional part of their time, though such wages rule higher *per diem* on the average. But such an alternative is inherent only with the present financial system of the gold dealer. Give the people money; do away with the metallic rule; adopt the National banking and credit system; encourage and harmonize the introduction of the National currency with our own, unrestricted by invidious legislation, and the laborer will obtain that which he does not now enjoy—*constant employment at increased wages.*

When money is abundant, its rate of interest low, and the facilities for obtaining it are made easy, the more active its use becomes—creating, in the same ratio, a demand for labor, and a consequent advance in its price. It is, then, clearly the interest of the laboring man to advocate and encourage the free circulation of our National currency. Let him not be deterred, by the fear of injury to himself from any financial convulsion, consequent upon the change from a purely metallic to a mixed currency. Have the same faith in it that is reposed by the laboring classes at the East, and the same prosperity will attend you that has visited and inspired them. All the injury that can accrue to you is in the lynx-eyed vision of the money-lender and gold dealer of the present impracticable and barbarous financial system—which is the heaven of the usurer and the money-lender.

I will now more particularly give the reasons that move me to advocate the adoption of the National currency in this State. The currency of the Government is *national in its character, and should be national in its circulation.* The stability of the system is beyond all question; there should be no antagonism in the financial system of the States; but the policy of the Federal Government should receive the universal sanction and encouragement of the people—*One nation, one currency!* That which is used by Government, for its own purposes, should be adopted by the people in all their monetary transactions. It should be uniform in its circulation, and should be permitted to pass among our citizens, unrestrained by State legislative enactments. In other words, the law of the Federal Government should be the rule, and its declaration, which constitutes it a



currency, that it shall be received as a "legal tender in payment of all debts," should receive the aid and encouragement of State authority.

There can be no question that the system of banking, authorized by Congress, is well founded, and that ample guarantees are provided against any possible loss to the holders of its issues. There can be no objection to this currency, on the ground that it will not be redeemed—for, complete provision is made by Government for the redemption of all bills issued, through securities required to be deposited with the Secretary of the Treasury. As to the outstanding legal tender notes, who doubts the ability of the Nation to insure their redemption? No man worthy the name of an "*American*." The process of absorption has already commenced, and as it shall continue, so more nearly will they in value approximate to gold. But this, instead of being used as an argument against their adoption by our people, as it is, can, with great propriety, be urged in favor of their free and active circulation on this coast. The advocates of the currency ask to be permitted to accept such policy as the Government may prescribe; to be permitted to use it under such restrictions of issue, contraction and redemption, as Congress may inaugurate.

Our National banking system is the most admirable one ever devised. It finds universal favor throughout our Nation, save the territory lying upon the Pacific. The States of the Atlantic board have prospered under its rule—a tide of substantial prosperity, unequalled in the history of our country, marks the adoption of our National currency. Every material interest in that portion of the Union has received a healthy stimulus, by its substitution as a circulating medium—and every branch of trade and industry is thriving under its use. If such is the effect there, is it not fair to presume that its introduction and unrestrained circulation among us would produce like results? No nation ever attained any great degree of greatness, and no people were ever remarkably prosperous, under a pure metallic rule. To elevate industry, and to advance trade and commerce, a liberal and well regulated credit system is essential—and to facilitate this, banks of issue and discount, as well as of deposit, easy of access to the people, are absolutely necessary. As the

authority of Mr. McCulloch, the able Secretary of the Treasury, has lately assumed a high position among the advocates of the old system of things on this coast, I take great pleasure in presenting in my argument an extract from his letter, of the 28th March last, addressed to Mr. Campbell, which ought to be accepted as conclusive on this point of my subject :

“No country can prosper for any considerable time when money commands so high a rate of interest as it does in California, and nothing would tend more directly to reduce that rate of interest than the introduction of a sound paper circulating medium.

“Paper money has been found to be a necessity in all commercial countries, and especially in the United States ; and what is true elsewhere, must be true in California. With her splendid climate, her fertile soil, and her inexhaustible mines, her wealth and population ought to have been more rapidly increased than they have been for some years past. With her great advantages, what has prevented her from receiving a constant flow of emigration from the other States ? What has prevented her from being a commercial and manufacturing State ? What is now repressing the enterprise of her enterprising people but the fact that money is dear—and credit, to a great degree, ignored ?

“California needs a well regulated credit system ; she needs a paper circulation to quicken enterprise, and give impetus to business ; she needs to be cured of the mania for an exclusive metallic currency ; in a word, she needs, in addition to the recognition of United States’ notes as a currency, a sound banking system—such as is provided for by the National Currency Act—and she will linger in the career of greatness until these needs are supplied.”

Two years since I gave my humble support to a bill to change the financial system of California, and to initiate another that would invite capital from the East, and otherwise expand our circulating medium, thus encouraging and promoting the industry and enterprise of our people. My opponents were loud and constant in their prophesies of future prosperity to the State, by the continuance of the system then as at present existing. Where now are the elements of prosperity to the people that were then so vauntingly promised ? Our total population in 1860 numbered 379,994—white 323,177, free colored 4,086, Asiatics 24,933, and Indian 17,798. We continued to receive accessions up to 1862, from which time we have decreased,

until our present number of white inhabitants is less than it was in 1860—the only State in the Union, not engaged in the rebellion, that has not added to its numerical force and strength. The returns of the County Assessors for the year 1864 and 1865, show a startling and most discouraging state of affairs, as clearly traceable to the operations of this act against the National currency, as light is traceable to the sun. In the year 1864, the assessed value of all the property in the State amounted to \$180,480,949. During that year the State was suffering from the effects of a protracted drouth succeeding a season of flood—the miners and farmers suffered severely.

In 1865, when Providence blessed the State with unprecedentedly abundant harvests, and the products of the mines of gold, silver, and copper were unusually large, the increase in value of the assessed property of the State was only \$522,459!—but little more than one-fourth of one per cent.—proving to a demonstration that fifty million dollars of gold and silver, twenty-five million dollars in wheat, barley, flour, and other agricultural produce—the ten million dollars worth of copper, borax, and other natural products of the State, were drained out of it, leaving each person only about a dollar for their year's industry. Again, these returns show that in 1861 the value of the assessed property in the State was returned at \$147,811,617. In 1865, when, by having a superior set of men in office, and as the exigencies of the State demanded, a more rigid assessment of every species of property was made, the assessment only amounted to \$181,007,401, showing an increase of only \$33,195,889—an increase almost wholly confined to San Francisco, an increase of less than twenty-two and one-half per cent. for four years, less than the interest charged by the banks of the State for the same amount for two years. This is a point so clear, so conclusive, that this Specific Contract Act, by preventing the introduction of the National currency, gives a class of citizens the control of the existing currency, and while it enables them to export all we produce, cuts off the sources of production by restricting the supply of money for the conducting of all legitimate business enterprise.

During this season of depression, one class of our citizens have prospered—the banker has grown rich—the money lender



has had his very harvest, whilst the real producer has become impoverished. The Bank of California is a happy illustration of the triumph of capital. That institution, on a capital of \$600,000, made a profit of \$500,000 during the year, when the average accumulation of every other person in the State was but one dollar each. Is it a safe, a wise, or an honest policy to maintain laws that enables a corporation to absorb the accumulation of the producing classes? Is it not about time to create competition in the loan market?

Whilst we are retrograding, the Territories near us are advancing in population and material wealth. What a contrast do we present to the progress of Idaho, Montana and Colorado? Colorado has more machinery for crushing mineral bearing rock than both California and Nevada. Idaho and Montana, with climate unfavorable to continuous labor, and with mines in no respect superior to those of this State, are rapidly outstripping us in population and the development of mineral wealth. Those Territories, by their wise and just policy, in accepting the National currency, are not only attracting the capital of the East; but the moving masses of the Atlantic board are being turned from us and added to their population. Under the present rule, so unwisely continued by us, this current of capital and emigration cannot be changed. The industrial classes of the older States, the character of population most desirable here, will no longer direct their steps hither, for they have a conception of our policy, that it is not only repulsive to their intelligence, but that it is hostile to the producing classes. They will not accept its operation upon their labor or their capital. Inspired by the evidences of thrift around them, the result of the banking system adopted at the East, they will avoid being victimized here by the antagonism we have created against the National currency. And no sensible man can censure their choice.

During the past Summer, I had the opportunity to devote a personal examination to the condition of things in the Northern and Eastern States, on the Atlantic side, having remained there several months. Two subjects of inquiry would most naturally predominate in the mind of an intelligent citizen of this State, upon revisiting, after the mighty struggle of the civil war was over, those loyal States that acquired an immortal renown for

their endurance and their power, to-wit: What effects were produced by such an exhausting war upon the material interests of those States; and what the prospect was of aid to California by immigration and capital from the East. To satisfy myself upon these points, it was my privilege to devote a considerable part of my time in taking notes of observation by quite extensive travel and conversation with the people. The indications of thrift and prosperity that greeted me everywhere were truly surprising, not only not checked by the operations of the war nor remaining stationary, holding their own, but actually increased and promoted by the apparant drain upon their resources, created by the necessities of the National cause. Such a condition of things is without a parallel in the history of the world.

This remarkable prosperity was not confined to any particular class. The farmer, the mechanic, artisan, laborer and professional man, all had alike prospered, each holding a liberal portion of the general distribution of wealth, and all attributing the increased good fortune to the wisdom of the Government in providing a financial system equal to the occasion, nationalizing the paper currency of the country, so that it held an equal value everywhere, and insured confidence all over the land. As it carried them safely through the fiery ordeal of the past, it would be very natural to expect that there is no abatement of their confidence as to the future. There is no accounting for the tastes of a people and their habits of thought. But he is a poor philosopher or statesman, indeed, that pays no attention to these things. It cannot be denied that they are partial to their own currency, which will purchase for them all the necessities and luxuries of life. Gold and silver with them is but a commodity, which they purchase whenever they have need of it, just as one buys any other chattel that he requires. The idea of treasuring up gold for the acquisition of wealth never enters their thoughts.

The people of the East are not ignorant of the state of things in California. Our genial climate and beautiful valleys incline those desiring to emigrate, to cast their lot among us. But the rule, which excludes a currency like theirs from circulation here, has turned the tide of emigration to the Territories lying east of us. The farmer with his five thousand dollars, good, lawful money of the United States, wishing to come here, can see no reason why he should be compelled to exchange it for another kind of Government money on landing at San Francisco; nor

can he be convinced that he is to realize any profit in submitting to a discount of fifteen hundred dollars, for the sake of converting his money into the circulating medium of this State. You may urge on him the advantages of our soil and climate; you may argue to him that the thirty-five hundred dollars he will receive in exchange will accrue to his benefit; that instead of losing he will gain by the transaction, yet he remains unconvinced by all such arguments. He will tell you, and in truth too, that his five thousand dollars will purchase more of the necessities, and even the luxuries of life, at his present home, than the same amount of gold will procure in California, and that it is to his interest to remain in some one of the Atlantic States. And to illustrate further the ruinous effects of our legislative action, he will tell you that his neighbor, for several years a miner in California, has just returned; that he left San Francisco with five thousand dollars in gold, and on arriving at New York, after having paid his passage and all expenses, he found himself in possession of more money than when he left the Golden Gate; that he made some two thousand dollars in converting his gold into other money. Such reasoning you will meet with throughout the East, and be assured, it is to our injury.

It can be no ordinary cause that has created this state of affairs. It cannot be that our agricultural lands have become less productive, or that our mines have ceased to yield up to labor their precious deposits. It is because of our financial antagonism; it is the curse of an exclusive metallic currency, repressing enterprise and keeping money beyond the reach of the people. If there is any other cause, I have failed to ascertain it. Some of the advocates of the present system will, doubtless, kindly indicate to the inquiring mind the cause of results so disastrous to the welfare of the State. If other reasons than that I have named exist, let them be mentioned, that provisions may be made by appropriate legislation, tending to stay the desolating flood of our adversity. Of our population, 35,257 are engaged in agricultural pursuits; 82,573 in mining; 5,077 in merchandizing; 124 in banking; and of the balance, about 175,000 may be classed as ordinary or general laborers—leaving some 25,000 to be divided between the different professions and trades, known or unknown occupations. A vast majority of our industrial classes, seven-eighths of our population, demand that the present rule be changed; they invoke the



Legislature to repeal the Specific Contract Act; they demand that we no longer discriminate against the National currency. Shall the voice of the producing classes—the real architects of our present and future opulence and wealth—prevail? Your answer, Senators, will be your action upon this bill; and for them I invoke your profound consideration before that answer shall go forth.

It is the boast of Californians that we have the most salubrious climate in the world; that our soil is the most productive; and that our mineral resources are unequalled. Why is it, then, with all these acknowledged advantages, that our population is the poorest of our Nation? Why is it that our fertile and productive valleys are not teeming with thrifty occupants? And why is it that our mineral wealth lies hidden and undeveloped? More than all, why is it that our producing, industrial classes—*vis vitæ* of the State—are rapidly deserting us, by every available means of transit, for more inviting and profitable fields of labor and enterprise. With water power unsurpassed in any State, our streams are unused by the manufacturer—while plain and valley, inviting occupation by their richness of soil and beauty of scenery, are tenantless, except by an occasional half-impooverished settler, whose possessions are unimproved, and whose tenements are equal only to the necessities of the trapper or border hunter—everywhere and on every hand, throughout the interior of this great State, do we meet with evidences of the languishing, wasting, and dying condition of the material interests of our people.

The picture is not overdrawn. It is true, alas, too true! For the last three years we have made no progress either in wealth or population; but the reverse has marked our course. True, San Francisco has prospered. That remarkable city, the glory and the pride of every Californian, holds a monopoly of the trade of the entire Pacific slope, the control of the commerce of the Pacific seas; and it is said by her citizens that she can prosper, grow great and rich without the trade of California. But I submit that San Francisco too, begins to feel the injurious and paralyzing tendencies of the metallic rule. Two thousand tenements unoccupied, and a list of ten thousand delinquent taxpayers, which she now presents, bear unmistakeable evidence that her people in the main are not prosperous; that she is not exempt from the rule that obtains in every other country, where an exclusive metallic currency prevails, that "*the rich get richer and the poor poorer.*"

I renew the inquiry: What has produced this condition of things, this death-like stagnation of all our great and material interests? *It is for the want of abundant, active and accessible capital; the ruinous rates of interest charged for that which we have, and for the total absence of anything approximating a well regulated credit system; evils, which are the inseparable attendants upon an exclusive metallic currency.* It is because we have, by unfriendly legislation, inaugurated a financial system, that brings us in direct antagonism to and competition with the currency and financial system of this great Nation, with its untold and countless millions of wealth; and, in such conflict, we are being ground like wheat beneath the upper and nether mill stone. It is because of the disastrous and suicidal policy, established by the combined and concentrated money power of the capitalists of the Pacific coast for their own selfish interests, their legitimate offspring—the *Specific Contract Act*.

The cruel parchment of this law spreads over us like a sable pall, intercepting the fructifying rays of prosperity. Like a withering drouth, it is drying up our agriculture to the very roots. It is binding with iron chains the strong links of our commerce. The very GENIUS of desolation, it stalks with stately tread, swaying its merciless scepter over an interior domain fairer than Italian vales. The palsyng influence of the Contract Act paralyzes all the industrial energies of our people; and usury sits in the seat of the money-changer, and "grins a ghastly grin;" grins at the misery of its own creating; jibbers as the rich blood spurts from the pores of overtaxed and ill-requited labor, and mocks with fiendish glee all effort to repeal the work of its own hands—this Specific Contract Law. I anticipate, among other echoes to this appeal, the hollow, metallic laugh of the confident money-lender, and the jibes and jeers of a subsidized press. I say that I anticipate all this; yet knowing it, with a proud consciousness of the justice of my cause, I dare do my duty to the people.

Senators; repeal this most obnoxious law—open a wide door for enterprise and competition in the money market—adopt and encourage the circulation of our National currency—give the people money. Do this, and thrift will soon preside where stagnation now reigns. Do this, and in two years you will have added two hundred millions to the capital of the State, and doubled our population.







# Irrigation.

## SPEECH

OF

# HON. JOB E. STEVENSON, OF OHIO,

IN THE HOUSE OF REPRESENTATIVES, MARCH 3, 1873,

*On the bill to provide for a board of commissioners to report a system of irrigation for the San Joaquin and Tulare valleys in California.*

A bill to provide for a board of commissioners to report a system of irrigation for the San Joaquin and Tulare valleys in California.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President be, and he is hereby, authorized to assign two engineers of the Army and one officer of the Coast Survey, now stationed on the Pacific coast, for the purpose of examining and reporting on a system of irrigation in the San Joaquin, Tulare, and Sacramento valleys of the State of California; and for that purpose the officers so assigned may associate with themselves the chief of the geological survey of California, and also one other civilian distinguished for his knowledge of the subjects.

SEC. 2. That these five persons shall constitute a board, with power to fill vacancies, whose duty it shall be to make a full report to the President on the best system of irrigation for said valleys, with all necessary plans, details, engineering, statistical, and otherwise, which report the President shall transmit to Congress at its next session, with such recommendations as he shall think proper.

SEC. 3. That the Secretary of War shall furnish subsistence and transportation for the board while in the field, and the compensation of the members of the board who are not in the service of the United States shall not exceed \$2,000 each, but the other members of the board shall receive no additional compensation for their services.

Mr. STEVENSON. Mr. Speaker, by passing the bill to consider the subject of irrigation of the San Joaquin and Tulare valleys we shall initiate a movement which may do more to promote the prosperity of the American people and the power of the Republic than aught else of material development which is left for this generation of Americans to accomplish. Having extended our boundaries to the Pacific, and from the tropics to the frozen zone; having explored and developed our mineral regions and laid rail and wire across the continent, what remains? We find in the heart of the continent vast areas of land having every element of fertility except moisture, great deserts, plains, and valleys where centuries have accumulated alluvial deposits and lakes and seas have evaporated and disappeared, and every sign of animation, every vestige of life save the fossil and the shell are

gone. Yet all that is needed to bring verdure and beauty and great abundance, with flocks and herds and farms, gardens, homesteads, villages, towns, and cities is—water.

Some of these parched plains and valleys have been touched by water turned from mountain sides or raised from the earth by wells, and lo! the desert blossoms as the rose. Where the climate is tropical, as in these valleys, farmers by irrigation have raised two crops in a year, both abundant. The soil is very deep; wells have been sunk more than a hundred feet through rich loam.

The productiveness of the San Joaquin valley when irrigated may be predicted from the results of a single year, when rains happened in season. This valley during the last season produced three hundred thousand tons, or over ten million bushels of wheat. But for three years in succession the crops failed from drought so severe and continuous that the labors of the husbandman were lost.

The farmer requires above all things reasonable certainty of rains in due season. Without rain or its equivalent he sows and cultivates in vain. He cannot speculate. He labors and must have his reward. These valleys are surrounded by mountain ranges, from which many rivers descend into the plains.

These mountain streams may be utilized by turning them into canals and by "storing" their surplus waters in winter in the mountains by reservoirs, so as to secure an abundant supply. There are sixteen streams heading in mountains crowned with perpetual snow. The life-giving waters are abundant. Man has only to store and turn them into the valleys and millions of acres of the richest lands may be given to perennial cultivation. A region five hundred miles in length and over forty miles wide, an area of over twenty-five thousand square miles, or fifteen million acres, might be redeemed. Massachusetts, Vermont, and

Rhode Island might be set inside of its dimensions.

These lands might produce one hundred million bushels of wheat annually if fully cultivated. They will yield also cotton and other products equally well.

Here are extracts from statements and reports of a distinguished civil engineer, a member of the institute, C. E. England, who examined these valleys, and who is practically familiar with the system of irrigation in operation in India, and from other sources deemed authentic:

*"San Joaquin and Sacramento valley.*

"Length, 500 miles; width, 50 miles; average area of the irrigable lands, 25,000 square miles—16,000,000 acres."

"Area of the mountains draining into this valley, 50,000 square miles."

"Soil—a rich and light loam, easily cultivated—produces wheat, cotton, tobacco, flax, hops, grapes—perennial cultivation with water for irrigation."

"Rains fall between November and April only. Drought four years in every seven. Vast facilities for storage works in the Sierra Nevada mountains and the Mount Diablo range of mountains."

"Tulare lake at the head of the San Joaquin or Tulare valley contains over five hundred thousand acres of water at low water stage; elevation two hundred feet above the sea; no mountains or hills between it and tide-water. Six feet off its surface will furnish water enough to irrigate five million acres of grain or cotton."

"Over three hundred thousand tons of wheat exported from the valley in 1872, worth \$12,000,000 to the farmer."

"2. I found all the land of the valley between Banta's station and Firebaugh's ferry, and from thence southward along the overflowed lands as far as Fresno City, (which was as far as I went,) to be more or less of a rich alluvial soil, a mixture of adobe and sand, there being sufficient sand with the clay to prevent the soil from cracking even in this severe season of drought; and all that seems wanting to make the raising of wheat, corn, sugar-beet, cotton, tobacco, hemp, ramie, and other valuable products an absolute certainty throughout the lands I saw is water."

"3. The drought this season (1871) has been so severe and long continued that the entire western side of this valley is cropless and apparently a mere dusty desert; water is only visible in the river and sloughs that connect with it."

"4. The hot winds, the very dry climate, and the general dusty nature of the soil of the valley remind me much of many parts of India, as some of these were before irrigation works were carried out, and convince me that similar irrigation enterprise in this valley will make it one of the richest and most productive valleys in the United States, as it possesses heat, soil, and water, and these combined will always make agriculture, gardening, and arboriculture both sure and profitable."

"5. Not only has nature formed a rich soil in this valley, but she has also laid out the surface of the land generally so even and regular that it would be scarcely possible to find an easier country to irrigate, and indeed I have not seen it equaled."

*"Hydrography of the country.*

"For a successful field of artificial irrigation the natural features and physical character of a country are important requisites, as well as that of hydrography. The rivers and streams from which the waters are to be taken for successful irrigation on an extensive scale should take their rise in mountain regions of perpetual snow. To the periodic melting of the snows the rivers maintain that permanency of volume which is the first essential element of success to such an enterprise. Where this characteristic is wanting the irrigation must be limited and local. No great works can be undertaken unless a perennial supply for them is secured. The great

*"San Joaquin and Sacramento valleys,*

lying at the base of the Sierra Nevada chain of mountains, many of whose crests are clad with per-

petual snow, and in the solitudes of which the rivers take their rise, give the advantage of permanency of supply to the works of irrigation which are and may be constructed in these valleys. The names of the several rivers which take their rise in this extensive range of mountains which form the eastern boundary of these great plains, and whose waters can be made available for their fertilization, commencing at the south and passing northward, are as follows: Kern, Tule, Kahweah, Kings, San Joaquin, Merced, Tuolumne, Stanislaus, and Calaveras, for the San Joaquin valley, and for the Sacramento valley, the American, Yuba, Feather, Putah river, and Cache creek, and the upper waters of the Sacramento river.

"Storing in the mountain valleys the waters of these rivers, now running to waste; and liberating them as required, will not only irrigate the lands in the plains and the foot-hills, but also improve the lands on the navigable rivers."

*"Tulare lake.*

"This magnificent sheet of water is situate in Tulare county, and is rather over two hundred feet above tide water. It has an area of about seven hundred square miles, or nearly five hundred thousand acres, or two billion one hundred million square yards. Not only is this lake the common receptacle for the drainage of the country, but it is fed by the waters of Kings river, Kern river, and Buena Vista and Kern lakes, and a large number of minor streams. In the summer, when the snow melts on the Sierras, immense volumes of water are discharged into this lake. 'Six feet in depth off the area of this lake, at low water stage, would give 4,214,000,000 cubic yards, and would be sufficient to irrigate over two million acres of grain in the driest seasons, and five million acres in seasons of ordinary rainfall.'

"Careful surveys and estimates have been made for extensive works for reclamation and irrigation in this portion of the valley. A summary of the lands roughly estimated as capable of irrigation 2,806,000 acres, and reclamation 3,806,000 acres, in the counties of Kern, Tulare, Fresno, and San Joaquin. Six million acres capable of redemption by irrigation and drainage."

"To build embankments to restrain the waters of Tulare Lake within the area of low-watershore line; to build levees, dykes, and embankments for controlling the streams in time of flood; to cut ditches and channels for reclaiming the swamp and overflowed lands, and to construct a canal and works of irrigation, will demand a very large expenditure. It is an immense undertaking for private enterprise, unassisted in any manner by Government aid."

"We believe it is susceptible of demonstration, if intelligently looked into, that this undertaking, carried out in its entirety, and its extension to the whole of the San Joaquin and most of the Sacramento valley, and to other available and necessary portions of the State, will confer more substantial, material, and moral benefits upon California than any other enterprise as yet developed, or that can be engaged in. Why was it that this country of sunshine, rich soil, and genial climate halted, as it were, in its onward progress just as the completion of the overland railroad opened our doors for the inspection of the world? Drought—drought followed this historical event—three years of drought hung over the land while the flood of visitors to our shores were taking an inventory of our natural advantages, and were gauging this country by an eastern and northern standard."

"There is more intrinsic value in the snowy peaks and condensing crests of the Sierra Nevada mountains than there is in the rich veins of gold and minerals that ramify their dark and solid interior. These lofty peaks and corrugated ridges afford an area of condensation and catchment double that of the extensive plains and foot-hills that lie at their western base."

"If rain never fell in these great central plains of California, 'there is water enough in the mountains, derived from snows and rains which fall there in periodic regularity, and also from artesian wells, for irrigating the lands equally as well as the rainless lands of Egypt and of Scinde, in India, are irrigated. It should be remembered that the rain-fall on the Pacific coast is confined to five months of the year, and is not intermittent, as in the eastern States.' 'The drainage from the mountains, even



in the seasons of minimum rain and snow fall, is immense, and only requires to be stored and utilized. We will now notice

*"The vast area of these plains."*

"The San Joaquin and Sacramento valleys, although designated by different names, (the names of the two great rivers,) are, in reality, one vast plain, occupying nearly a central position in the State of California. The northern part of this plain has the Sacramento river running nearly through its centre in a southerly direction; and the southern part has the San Joaquin river running through a large portion of it in a northerly direction. These two large and navigable streams discharge their waters into Suisun bay, thence through the straits of Carquinez into San Pablo bay, thence into the bay of San Francisco.

"These plains are fully five hundred miles in length, and have an average width, including only the lowest and easily cultivatable foot-hills, of forty miles, giving an area of twenty-five thousand square miles, or fifteen million acres of farming land in a single connected body. What a magnificent arrangement for a large agricultural population! If the whole of the States of Massachusetts, Vermont, and Rhode Island were placed in it, there would be six hundred and eighty-two square miles uncovered.

"To apportion this area between the two valleys, the San Joaquin has the largest part, or twelve thousand square miles, or 7,680,000 acres, and the Sacramento has eight thousand square miles, or 5,120,000 acres. This area already given only includes the smallest foot-hills. But if we only ascend the accessible and fertile slopes on both sides of this immense plain we may add fully fifty per cent. to that area. And if we go to the mountain peaks we can double the extent.

"We know that these two valleys, in the past season of general moisture, with not one fourth of their present available area under the most imperfect culture, produced nearly twenty million bushels of wheat, beside other products of great value.

"Two thirds at least of the whole area of the San Joaquin valley can be easily irrigated. Is it not therefore evident that if an amply supply of moisture be secured yearly to this valley alone its products would be of more value than all the mines as yet developed on the coast. This valley has 7,680,000 acres. Now we will allow for the area taken up and to be taken up by the rivers, roads, towns, dwellings, vegetable gardens, pastures, and for cotton culture and horticultural purposes, the odd 3,680,000 acres; leaving 4,000,000 acres for the raising of wheat. This should yield, under proper culture and irrigation, an average at least of twenty-five bushels per acre per annum. This would give a reliable product of 100,000,000 bushels, or 3,000,000 tons of wheat annually; enough to load 3,000 ships of 1,000 tons each.

"We also know that the land and the sunshine are in the valley, and the waters are always in the mountains. These lands have also produced some cotton and corn, and will produce fully 500,000 acres of cotton annually, equal to 100,000,000 pounds. The Creator has done ninety-nine parts in the hundred of the possibility, and it only remains for man to do the hundredth part to secure its reality."

"The hydraulic agricultural result of this system of irrigation and reclamation would be a minimum yield of grain equal to (640,000 acres  $\times$  35 bushels) 21,400,000 bushels, and which yield would, of course, be doubled if a second crop, consisting of corn and cotton, was raised, and as the price per bushel of grain is not likely to be less than one dollar, the total value per crop would be \$35 per acre, or \$21,500,000.

"I saw in Bakersfield and its environs magnificent crops of Indian corn growing, which had been sown about the end of June and beginning of July, after a crop of wheat had been obtained off the same land. The corn in one field averaged from sixteen to eighteen feet in height; the cobs were of immense size and about a span in length. This was the result of irrigation alone, as the rest of the country, with precisely the same soil, was quite barren and desolate from the drought. I was also shown fields of alfalfa which had already yielded under irrigation three crops, averaging from six to eight tons per acre. These facts prove the immense value of hydraulic agriculture, especially in years of severe drought as this has been."

"It may be thought on reading the above remarks

that I am endeavoring to make out that this country is an agricultural and horticultural El Dorado, but the truth is that nature has so lavished her gifts in the way of rich soils, an almost tropical climate, with regularity of seasons, and great facilities for irrigating the lands, that man has only to collect, store, and distribute the greatest treasure of all, namely: the waters from the mountains, which hitherto have run to waste, and in doing this he is repaid two and three hundredfold in the abundant yield of the watered lands.

"The effect of irrigation will also be the growth of timber throughout the valley, and the settler will be able in three years to grow a live fence of willow, osage orange, cottonwood or poplar, with the grape vines, the raspberry, the blackberry and the mulberry intertwined, for about ten cents per rod, instead of the lumber or dead fence which costs him from \$150 to \$250 per rod, or \$480 to \$800 per mile."

"A good deal of land has been irrigated in Tulare county this season from Kings river and the Four creeks, and some very fine crops of corn and alfalfa have been raised, so that the farmers and others are keenly alive to the importance and value of irrigation.

"From the Fresno river to the Tuolumne river there are several rivers and streams which flow with considerable volume during the winter and spring months, and whose waters could be easily stored in valleys within the foot-hills, so as to supply the valuable lands just below the foot-hills with ample means for irrigation during the dry season. I consider this work of storing water in the hills one of considerable promise and value, and also one of small cost, comparatively with the agricultural results arising from such a system of irrigation."

"A certain amount of irrigation has already been carried out this season in Fresno, Tulare, and Kern counties, quite sufficient to demonstrate the value of water in a season of terrible drought as this has been. All these irrigated spots stand out like an oasis in an Arabian desert.

"When you consider that every cubic foot of water per second of continuous flow is sufficient to irrigate at least two hundred acres of grain, and that with water these rich alluvial soils will yield probably not less than thirty bushels per crop per acre; and also that the price of grain is not likely to be less than one dollar per bushel, you will see that every cubic foot of water per second has a minimum value of (two hundred by thirty) \$6,000.

"It is surprising to observe the energy and enterprise the poor farmers and others have shown in the carrying out of the several ditches in Fresno, Tulare, and Kern counties."

"I trust I have shown clearly enough that the development of an irrigation system in the drought-smitten plains and valleys is of the utmost importance.

"It is the only means you have of obtaining a permanent class of settlers, namely, by securing their lands from drought.

"With water, rich soils, and heat combined, the productiveness of this country will be so great that the present wandering and never-settled class of cultivators, who are in the San Joaquin Valley this year and next year in Oregon and so on, will give place to settlers who will delight in making California their permanent abode."

"California is greater in area than Great Britain and Ireland, and could better support an equally large population, because the climate in these plains admits of the cultivation of two crops a year, and the raising of all the most profitable products and fruits of a semi-tropical country."

The storage system has been long in use in India; millions of people are dependent upon it. Vast areas, thickly populated, could not be tilled for a year without irrigation, and this has been so for generations—for centuries. The map of parts of India looks like a chart of lakes and rivers, so thickly laid are the artificial basins of water and the canals, which are used for irrigation and navigation as well.

It seems that in the hands of intelligence and enterprise every part of our domain can be made useful. Our great rivers which diverge and flow apart to the seas rise in the

mountains almost within hail of each other. From the summits of the Rocky mountains you may trace the drainage of streams flowing to the lakes, the Gulf, the Atlantic, and the Pacific; and from every attendant chain of mountains tributary streams break forth and flow to join the chief rivers on their way to the seas.

We may yet find means to lead all these waters through the deserts which thirst for them, and thus make every part of our land habitable for the people; multiplying homesteads solidifying the Republic, and greatly enhancing the national wealth, happiness, and power. I trust this bill will be passed and liberally carried out, and that it will initiate improvements which will honor this Congress while "water runs and grass grows," while grain ripens in the sun, while fruit bends the bough, while grapes cluster on the vine, and flowers bloom upon the air.

Mr. Speaker, the Republic appears to have risen above the region of mere party politics. Questions which heretofore occupied the thought and absorbed the time of statesmen have been settled either by reason and judgment or by arms.

The nation emerges from the conflicts of the past, one of the greatest Powers of the earth and of history, with an assured future, the thought of which expands the mind; but with all this national glory there seems to be a lapsing of individual greatness, a subsidence of that noble and ennobling disinterested patriotism which characterized and distinguished Americans in our early history and in our recent struggle. Why is this? Is it not because there seems little left to be done for the "country;" because the Republic has become too great any longer to need the services of her children, and therefore her children, seeing that their devotion is not needed, revert to the selfishness to which man is prone, and begin to look after their own petty interests and affairs, sometimes even to the public detriment?

Among a free people every emergency seems to summon men adequate to meet it; but now that there appears no emergency citizens relapse into ordinary affairs and conditions, and patriotism is dormant.

Hence there is little in the disappearance of public spirit which should alarm. The danger is in long-continued indifference which may bring up generations of non-patriotic citizens who, looking to the aggregate of national power and prosperity, and seeing nothing to be done for the common weal, but much to be gained from the common wealth, may confine their exploits to the increase and sharing of "public spoils."

The fall of empires and republics may be traced through history to this source. The true statesman, looking to national permanence and health, will be most anxious to see those citizens who are in the public service or who aspire to such employment continually doing or contemplating some public good. There is no better means of maintaining and exalting the character of men than exercise in good works.

Necessity and opportunity to serve the country make patriots; necessity and opportunity to serve mankind make philanthropists. He who would maintain and promote patriotism and philanthropy must give them exercise. If there be no necessity for self-sacrifice in the defense of the country, and happily there is none, then let us consider what good thing those in authority can do for the people, for generations to come, for mankind.

Whoever considers this question will see that the most obvious public want is the material improvement of the interior of the country. The development of its natural resources and means of communication, the utilization of native elements. Let the minds of public men and of the people be turned more and more to these subjects and they will draw hence the inspiration of patriotism.

Among all the works of material development what is there more beneficent than the watering of desert lands, bringing into life, fertility, and cultivation vast regions lying dead under the curse of drought?

What work more beautiful does nature offer to the hand of man? What more like creation itself? It is creation, a new creation. And he who contributes to such achievements rises to the highest sphere of usefulness and performs for his country and his kind one of the noblest deeds of which man is capable.

SPEECH

*W. F. Weston*

OF

*John*  
HON. J. B. WELLER, OF CALIFORNIA,

IN

DEFENSE OF HIS CONDUCT WHILE BOUNDARY COMMISSIONER,

AND

IN REPLY TO THE CHARGES OF EX-SENATOR EWING.

DELIVERED

IN THE SENATE OF THE UNITED STATES, JULY 6, 1852.

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WASHINGTON:  
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.  
1852.



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## MEXICAN BOUNDARY COMMISSION.

The Senate proceeded to consider the resolution submitted by Mr. WELLER on the 28th June, in relation to certain charges preferred against J. R. Bartlett, Commissioner for running the Mexican boundary, as follows:

"Resolved, That the charges preferred by Colonel J. McClellan, of the Topographical Corps, and others, against J. R. Bartlett, appointed Commissioner to run and mark the boundary line between the United States and the Republic of Mexico, be referred to a select committee of five for investigation, with power, if necessary, to send for persons and papers."

Mr. WELLER said:

Mr. PRESIDENT: If I were to consult my own feelings, I certainly should abstain from intruding myself upon the Senate to-day. The repugnance which I should naturally feel at all times in addressing so distinguished an assembly is greatly increased upon this occasion by the fact, that I am compelled to say much which, although important to myself, may be very uninteresting to others. Although bitterly assailed, and oftentimes shamefully misrepresented, I have consoled myself with the reflection that this was the common lot of all who took an active part in the political contests which from year to year have agitated the public mind. I have supposed, however, that there was sufficient intelligence in the country to enable the people to do justice in the end. I have generally found it better to bide "the peltings of the pitiless storm," than to expend any portion of my time in exposing the falsehoods which profligate politicians and a corrupt and mercenary press have invented and circulated against me. When warmly and zealously engaged in defending those principles which I sincerely believed were inseparably connected with the prosperity and happiness of the Republic, it was to be expected that I would come in for my full share of abuse from those who held antagonistical principles—that to destroy any influence which I might exercise over the popular mind, every species of warfare known amongst partisans would be resorted to. But I confess I was not prepared for the bitter and vindictive denunciations which have been heaped upon me by a considerable portion of the Whig press since I took my seat in this body as one of the representatives of a far and distant State.

I have scarcely opened my lips in the Senate, nor have I done or said anything calculated to give offense to any gentleman, or to any party. But these editors, mistaking blackguardism for wit, and low vulgarity for sarcasm, have been laboring most assiduously to amuse and instruct their readers by calumniating me. I have, however, been so long accustomed to their howling that the sound has become not only familiar, but rather musical to my ears. It is said that the hunter sleeps more quietly when lulled by the baying of his hounds; and I am sure in this case my repose has not been in the slightest degree disturbed. He who has slept sweetly in the dense forests of the far and mighty West, with a pack of howling "Cayotes" around him, cannot be disturbed by the barking of the contemptible puppies who infest your towns and cities.\*

Whilst no one places a higher estimate upon the confidence and respect of those with whom he is acquainted or personally associated than I do, you will permit me to say that there is no one who is more indifferent to the abuse of his political enemies *when not repeated to his face*. I doubt not many very respectable men have been prejudiced against me by the slanders and misrepresentations of the press; but as I have never courted the friendship of any man, whether great or small, I do not intend to give myself any uneasiness upon the subject. Whilst I am ready and willing at all times to extend the hand of friendship and respect to honorable opponents, I do not intend to make any efforts to remove the prejudices which they may entertain against me. To my calumniators I can only say, as St. Paul said of the coppersmith Alexander, who had done him much harm, "May the Lord reward them according to their works."

But my object to-day, Mr. President, is to notice one of the keepers of the kennel, who has contributed largely towards hissing the cowardly pack upon me. One who took advantage of his

\*NOTE.—See "Buffalo Commercial," "New York Tribune," "Cincinnati Atlas," *et id omne genus*.

position, as an accidental member of this Senate, to assail me in the most vindictive manner. This assault was made when I was an humble citizen upon the shores of the Pacific ocean, six thousand miles from those to whom I was personally known. I had been dismissed from a high and responsible mission, and thus disgraced so far as the action of the party then in power could effect it. This same man was the Secretary of the Interior, and as such acted as the political butcher in this work. Not content with this, he subsequently obtains a seat in the Senate, and here, before the American people, misrepresents, as I will show, most shamefully my public acts, and assails my private character with a vindictiveness almost unparalleled in party warfare. Like a base miscreant, he supposed that the breath of his nostrils, when invested with power, could prostrate me forever. Foolish indeed must he have been to have thought that one proverbial for rottenness and corruption could, because clothed with senatorial robes, blast the reputation of a young man who had always enjoyed the confidence and respect of those with whom he had been politically associated. For six years I had represented in the other branch of Congress one of the oldest and most respectable districts in my native State, (Ohio.) Immediately preceding my departure to the Pacific, I had received the support of the Democracy of that State for Governor, and in a popular vote of nearly three hundred thousand was beaten some three hundred votes.

My nomination as Commissioner, under the treaty of peace with Mexico, was received by the Senate, and instantly confirmed by a *unanimous vote*. There in Ohio, to which State this butcher supposed I would return, he circulated his slanders most extensively. As I have learned since my return, extraordinary efforts were made to put copies of his speech into every portion of the State. His pack immediately set up a most terrific howl, and one unacquainted with the impotency of these toothless animals, would have supposed that I was ruined forever! But, Mr. President, upon a visit to that State very recently, I found that no other effect had been produced, than to place me still higher in the confidence and respect of the people with whom I had been for so many years associated. In the county of my birth, and in the one where I had lived from boyhood, I met with a warm, generous, enthusiastic reception, which proved satisfactorily that an absence of more than three years, with all the vile slanders which the corrupt and unprincipled had heaped upon me during that period, nothing had been done to lessen the affection which they had always shown for me. Mr. President, nothing since my connection with public affairs, has given me so much pleasure as meeting, under such circumstances, the old friends who had sustained me through good and through evil report, and with whom I had fought, shoulder to shoulder, some of the fiercest battles known to the political history of that State. They had, at six different elections, bestowed their suffrages upon me for public offices; they had known me from boyhood; they were my old neighbors; they knew every pulsation of my heart; they were familiar with every act of my life. If I had betrayed their confidence, or been guilty of an act of dishonor, they must have known it, and they would have been the first to denounce me. God

bless the people of Butler, and may they be long, prosperous, and happy life!

Learning, however, in a short time, that it was not my intention to return, a large number of his slanderous speech was sent to California, with a view to ruin me there amongst strangers, far from kindred, far from those with whom I had been personally associated. The position I now occupy in this body, by a vote of seventy-one to seventeen, proves conclusively how well he succeeded in this unmanly effort. The people of that mighty State of the Pacific, have sent me here to respond to his charges.

To show the extent to which this man has succeeded, I may be pardoned for alluding to the compliment recently paid me by my native and adopted State—a high compliment, for which I shall always feel under the deepest obligations, as it proves that all the efforts of enemies here and elsewhere to prostrate me have most signally failed. Give me the confidence and respect of those men who represented the honest and true Democracy of Ohio and California, and the denunciations and curses of my political enemies shall pass by me as the idle wind.\*

Before I proceed any further, I must be allowed to return my unaffected thanks to my colleague, [Mr. GWIN,] the Senators from Michigan, [Mr. CASS,] from Maine, [Mr. BRADBURY,] and Iowa, [Mr. DODGE,] for the manly defense they made in my behalf against the rude and unprovoked assaults of this ex-Secretary and ex-Senator. There were many things connected with that boundary commission which they could not then know; and yet I would be perfectly willing to let this case rest before the bar of public opinion upon their defense. But friends in whose judgment I have the most unlimited confidence, have advised me that it was due to my own reputation that I should reply in person, here in the Senate where the attack was made. I would not like to see my native State disgraced, and yet I would that he was here, for a short time at least, where I could meet him face to face, and fasten his falsehoods in his very throat.

To the distinguished Senators already named, I feel under the deepest obligations. They would not sit quietly by and see a young man abused and calumniated who was then in a far distant land. Their innate sense of justice induced them to extract the fang from the viper, and strip him of his power to injure. The distinguished Senator from Michigan, who has himself been made the object of unceasing abuse for more than a quarter of a century, can appreciate my feelings in reading the voluntary and unsolicited defense made in my behalf.

I rejoice, too, that none of the ex-Secretary's political friends, who participated in the debate, gave any countenance or support to his personal attack upon me. They knew me only as a political foe, and they had too high a sense of honor to join in a crusade against my private character. On the contrary, I find by reference to the Congressional debates that the distinguished Senator from North Carolina [Mr. MANGUM] used the following language:

"I have not a word to say with regard to Colonel Weller.

\* California gave her first vote in the National Convention for John B. Weller for President, and on the ballot for Vice President, Ohio and California both cast their whole vote for him.



knew him very slightly some years ago, and I found him a very pleasant and agreeable gentleman. I know nothing which detracts from his reputation, or which ought to detract from it."

This is the language of a gentleman—of one who never permits his political feelings to convert him into a blackguard. And in this respect there is a striking difference between him and the ex-Senator of whom I have been speaking.

I also find, upon examining the debates, that the other distinguished Senator from North Carolina, [Mr. BADGER,] in the course of the discussion, when speaking of the delay in sending my vouchers, which was alleged as a cause of removal, said:

"I was very much surprised to hear him say, that if Mr. Weller had been a Whig, under such circumstances he would have advised his removal, because it showed not an ignorance, but a momentary forgetfulness, of the legal presumption, which I take to be this, that if Colonel Weller had been a Whig officer, it would have been presumed, until the contrary was proved, that there was very good reason for the delay; whereas, being a Democratic officer, the legitimate, fair presumption was, that the delay was unwarrantable, until the cause of it was explained. Therefore the course pursued towards Colonel Weller, being a Democratic officer, it strikes me would have been outrageous, if it had been pursued towards a Whig. [Laughter.]"

If, as the Senator from North Carolina seemed to desire, my removal had been placed upon political grounds, no one would have had a right to complain. I had been an active politician, and it is very probable had *occasionally* denounced the Whig party in strong terms. Whilst I have many personal friends in that party, for whom I cherish the warmest feelings of friendship, as a political party I never did have much respect for them, and I think it quite likely I may have *sometimes* expressed that opinion.

Proscribed, as they no doubt thought very properly, for my political opinions, they felt no disposition to rob me of my reputation as a private citizen. No, sir; there was but one man in the whole Senate so devoid of principle, so destitute of all honorable feelings, as to engage in an effort to blacken the character of a citizen then in private life. With this man I have no personal acquaintance. He belongs to a class of men with whom I never intended to have any acquaintance. There are some men with whom contact is pollution—association, dishonor. As I had never done him any harm, his assault was wholly unprovoked, and exhibits a wicked and malicious heart.

Before I go into a history of this commission, I must also be allowed to say that I am satisfied that nothing but the outside pressure, the influence of political butchers, could have induced President Taylor to make the removal. I had served with that gallant chieftain in the Mexican war—had been with him in the bloody field of battle. The kindest relations always subsisted between us. He had invariably treated me as a friend, and although actively engaged in endeavoring to defeat his election to the Presidency, I never could be induced in the heat and violence of the contest, to impeach the character of the old soldier, or impugn his honesty or integrity, as a patriot. One who had so often exposed his life in the service of his country, I knew never would betray it in peace. That he was a statesman, acquainted with the science of government, and familiar with the political questions which have agitated the

American mind, no one can claim. That he was an honest man and an incorruptible patriot, no one who knew him could doubt. If he had been permitted to follow his honest impulses, and the dictates of his own judgment, uninfluenced by the advice of selfish and tricky politicians, his course would have been far different from that which was adopted.

And now, Mr. President, I must go into a history of this boundary commission. What I say shall be that which I know—that which the records of the country will establish—that which, although it *may* be denied elsewhere, shall not be controverted here. The corrupt and unprincipled editors of a party press may deny, but no one here shall do it.

On the 12th of December, 1850, when the subject of my removal from office was introduced, this ex-Secretary, then upon this floor, used the following language:

"As to Colonel Weller, there was some difficulty in respect to him and the execution of his duty. There was an appropriation of \$50,000 to commence the boundary survey. The whole sum was expended; and, in addition to that, as far as could be ascertained, some \$20,000 or \$25,000 were drawn for, and no more work was done by him than to simply fix the initial point on the Pacific coast—that is, to measure two marine leagues south of the Bay of San Diego,\* erect a rough monument there, and to find the point of junction of the Gila and Colorado. The services performed bore no just relation to the expenditure. In addition to that, there were heavy complaints against him from those that were with him on the commission, of inefficiency and want of attention to his duties.

"This was the report received prior to the time of his removal."

The justification for the removal upon other than political grounds must of course rest upon the facts as they existed at the date of the order superseding him. Nothing which transpired subsequently can be introduced in justification. Now, Mr. President, this is assigned as the reason for the removal; and if I show from the records that there is not a single word of truth in it, I will have proved that the ex-Secretary is unworthy of the confidence of any honest man.

By examining the document printed by order of the Senate, under date of 27th February, 1850, it will be found that the first order for my removal bears date 26th June, 1849, and was forwarded to Colonel Frémont for delivery.

The only information the Department could possibly have had at the date of that order, was my letter of the 20th March, 1849, from Panama, advising the Government that I was awaiting transportation to San Diego. The Department, at the date of that discharge, could not possibly know from any source whatever that I had yet reached San Diego! I reached that point on the 1st of June: the Mexican Commissioner came in on the 3d July, and the joint commission was organized on the 6th. Under directions given by me, both parties of the American commission (surveying and astronomical) were placed in the field on the 9th; so that, so far from having expended \$50,000 (whole appropriation) in determining the initial point on the Pacific, they could not know how much I had expended—nor was the joint commission organized—nor had *any part* of the work been done. In other words, the order

\*The treaty required one marine league south of the Bay of San Diego, and yet the Secretary, in this unimportant matter, could not tell the truth.

of removal bears date ten days anterior to the organization of the commission, and thirteen days before any work whatever had been performed.

On the 20th day of July, the Secretary of State, in a letter to the disbursing agent, says: That of the appropriation "Commissioner Weller has received, in a payment in advance and accepted drafts drawn on the Department of State, \$33,325—that vouchers in support of his disbursements have been received, (but have not yet been passed by the Fifth Auditor,) \$24,849 32, leaving overpaid and wholly unaccounted for, a balance of \$8,475 68."

This statement, so far as it goes, shows an expenditure of only *one half* of the appropriation. The vouchers to which he refers, and about which so much has been said, were received by the Department *the day after* the order of removal, and before that letter had left the city. How, then, could the Department know on the 26th June, that \$50,000 had been expended? From what source did they obtain this statement? *Not a single voucher* had been returned at the date of the order, and, consequently, they could not know how much had been expended—"there was an appropriation of \$50,000 to commence the boundary survey—that whole sum was expended, and in addition to that, as far as could be ascertained, some \$20,000 or \$25,000 were drawn for, and no more was done," &c. I have already shown that the first allegation was wholly false and unfounded. To the second charge I have to say, that the drafts drawn by me, (including the \$15,000 received on my departure from Washington,) which had been presented to the Department at the date of the order superseding me, amounted in the aggregate to the sum of \$33,000. I have further to say, that no drafts exceeding the appropriation *ever were drawn by me at any time, either before or after* the date of his order. Therefore, the charge that I had drawn for from \$20,000 to \$25,000 over and above the appropriation, is a base falsehood, and the records prove it.

In the next place, he affirms that "many complaints were made against him from those who were with him on the commission of inefficiency and want of attention to his duties—all these things and more appear from the papers accompanying the report," &c. I have examined these reports, and find, as I anticipated, that this allegation is also untrue. No one attached to the commission has complained of "inefficiency and want of attention to duty" on my part. The "papers" show no such charge, and he must have known it.

The order to which I have referred of the 26th of June, never was delivered. The history of that matter is briefly this: In the month of August, 1849, the money which I had drawn from the Treasury (\$15,000) being exhausted, and having but a small supply of provisions on hand, I proceeded to San Francisco for the purpose of receiving the supplies which had been shipped in February preceding, from New York, *via* Cape Horn, and also, if possible, obtain funds by negotiating drafts on the Treasury. Previous to leaving, however, I made the necessary arrangements so far as my limited means would allow, for sending an astronomical party to the mouth of the Gila river, to determine the geographical position of that end of the line. This party left about the 8th of Sep-

tember, under charge of Lieutenant A. W. Wipple, who performed the service in the most satisfactory manner, and returned to San Diego in November.

I reached San Francisco about the 20th of August, and a day or two afterwards the vessel came in with my supplies, and they were dispatched to San Diego.

Finding it was impossible to negotiate my drafts upon reasonable terms, I repaired to Monterey, the headquarters of General Riley, with the hope that I might be able to obtain an advance from what was called the "civil fund," then under his control. In this city I was informed by gentlemen, whose veracity could not be questioned, that Colonel Frémont had in his possession letters superseding me as Commissioner.

As Colonel Frémont was then hourly expected in Monterey, I determined not to put any drafts in the market, but to await the delivery of the letters superseding me. After the lapse of some two weeks, (having met him in the mean time almost daily,) the subject was introduced by him, but he declined delivering the letters, which would have relieved me from duty. He was then informed that the commission was entirely destitute of funds, and unless money could be obtained the work must necessarily be suspended. With his approbation application was made to General Riley, and he, for reasons no doubt satisfactory to himself, declined making any advances. As Colonel Frémont left Monterey for San Francisco on the day preceding General Riley's decision, I dispatched an express for him with the following letter:

MONTEREY, CALIFORNIA, September 27, 1849.

DEAR SIR: Having failed in obtaining funds from General Riley, I have been compelled to send an express to San Francisco, with a view to negotiate the drafts herewith inclosed. Justice to the employees of the commission, as well as the interests of the Government, demand that funds to the amount of \$10,000 should be raised, if possible, before you go to San Diego. Very little has been paid to them since the 1st of April, and as some of them will doubtless desire to leave, it is necessary they should be paid. Besides, there are some debts contracted for supplies, house-rent, &c., which should, for the honor of the Government, be paid *at once*. As the public understand that I am superseded, your explanation will be necessary in obtaining funds.

I send four blank drafts, supposing they might be more conveniently negotiated at different houses. If any are used as duplicates, please see they are so marked. As some of the employees may desire to go to San Francisco, a deposit of a portion of the money in that place will, perhaps, answer the purpose. Whatever sum is obtained in money should be placed on the "Oregon," unless you will take personal charge of it.

If any draft is sold below par, be good enough to take receipts in my name. I send my instructions of the 24th of January last, from which I derive authority to draw the appropriation specified.

Mr. Plume, of the firm of Burgoyne & Co., is charged with the execution of some orders for me, and will, I have no doubt, aid in raising funds.

As I regard this business of the utmost importance to the Government, as well as myself, I must beg your attention to it as soon as practicable.

Very respectfully, your obedient servant,

JOHN B. WELLER,  
United States Commissioner.

Colonel JOHN C. FRÉMONT.

It will be seen from this letter that as it was rumored that I had been removed, I was unwilling to put my drafts in the market, unless negotiated through the agency of the gentleman who was to supersede me. This proves, too, how much truth there was in the dastardly insinuation of Secre-



by Clayton, that the Commissioner had drawn for money "after his removal from office." On the first of October he came to Monterey in the steamer, and informed me that he could not negotiate the drafts for less than twelve or fifteen per cent. discount, and this he did not feel authorized, under my instructions, to give. He then informed me that he would be in San Diego (intending to travel by land) about the middle of October, when he would deliver his letters and take charge of the commission. I immediately embarked (leaving the drafts for \$10,000 still in his hands) in the same boat which had brought him down, and reached San Diego on the 3d of October. When I reached that place, I had not in my possession fifty dollars, either public or private money! There were then some thirty-five or forty persons attached to the commission, to all of whom wages were due, and they were absolutely suffering for the want of their pay. And here I must say, in justice to those gentlemen, that a more intelligent or faithful corps never was placed in the field. Although without pay, they were ready at all times to perform cheerfully the duties assigned them; and I deeply regret that these young men, who had labored so assiduously for the Government, were compelled, upon settlement, to receive certificates, instead of money, which many of them were forced to sell at a discount of twenty or thirty per cent., in order to obtain the necessities of life. Some of them have not yet been paid. When you take into consideration the fact, that these gentlemen were employed at wages not exceeding *one fourth* those paid by private citizens for similar work in California, the great injustice done to them will be apparent. So far from the charge of "extravagance," made against me by the Administration, being true, I only regret the niggardly economy which necessity compelled me to practice towards them. If any hard feeling was ever entertained by a single member of the commission toward me, it grew out of this.

With a full knowledge that they would find no difficulty in obtaining employment at San Francisco at most extraordinary wages, they did not desert me. There were men upon that commission employed at from \$500 to \$1,000 per annum, who could readily have obtained in the upper part of the State that amount *per month*. There were men employed at \$2 per day, whilst the same labor would have commanded at San Francisco from \$16 to \$20. And still the charge of extravagance was preferred against us.

On the 3d or 4th of November I received the following letter from Colonel Frémont:

SAN FRANCISCO, October 31st, 1849.

DEAR SIR: After a long delay in endeavoring to sell your drafts on favorable terms, I have this day found myself obliged to sell them at ten per cent. discount. No better terms could be obtained, and the necessity which exists for your payments to be made did not appear to admit of further delay. I have sent to you (through Messrs. Burgoyne & Co.) by the steamer California, which sails to-morrow, \$5,000 in specie, and have deposited to your order at the same house, the other \$4,000 in specie. Of this about \$50 will be required for the freight, and \$300 more will be required to pay your carpenter, whom you directed to call upon me. The remainder will be subject to your order.

Hoping that this will arrive in time to meet the necessities of your people, I am, very truly, yours,

J. C. FRÉMONT.

Colonel J. B. WELLER, U. S. Commissioner, &c., &c.

This constitutes my whole correspondence with him. It will be observed that no *allusion whatever* is made to relieving me from duty. That I was exceedingly anxious to leave the commission no one can doubt, when they are advised of the fact, that gentlemen of my profession were then receiving from \$3,000 to \$5,000 per month at San Francisco. The funds to which he refers came safely to hand, and were faithfully applied as far as they would go to the extinguishment of the debts of the commission.

And now let me turn to the official documents, for the purpose of showing the extraordinary course pursued by the late Secretary of State, Mr. Clayton. On the 26th of June, 1849, he appoints Colonel Frémont commissioner, and incloses a letter for me to him. Two days afterwards (28th June) he says:

"With that letter one addressed to your predecessor was also transmitted, which, however, it is deemed advisable you should not deliver or forward to him until you are about to enter upon the duties of the office."

On the same day, 28th June, he addresses a letter directly to me upon the subject of Indian presents, &c., in which he makes no allusion whatever to a failure to transmit vouchers, nor to my removal, nor to the protest of my drafts. It is true that letter never was received, but if it had been it was well calculated to deceive. I was to be kept profoundly ignorant of everything until it suited the convenience of Colonel Frémont to relieve me of the commission.

If I could then have known that my drafts were protested, I should of course have withdrawn from the commission at once, and engaged in business more agreeable and far more profitable. But this information I did not receive until the month of December, two months after the last drafts had been drawn.

The Secretary of State, in his letter of the 20th of July, in making out a statement of my account to the disbursing officer, says:

"You will perceive, from this statement, that the whole sum appropriated for the service of the current year was \$50,000, and that more than two thirds of this amount has already been drawn by the commissioner, before and since his removal from office."

I have already shown that the order superseding me is dated 26th June, and by no possibility could reach me before the month of August; and yet on the 20th July, he speaks of drafts drawn "since his removal from office." The insinuation is a base and infamous one, unbecoming either a public officer or a gentleman.

In the last days of November, I repaired again to San Francisco with a view to obtain, if possible, my discharge from Colonel Frémont. There I learned that he had accepted the commission, subsequently resigned, and declined relieving me by returning the letter to the Department. Nothing was therefore left for me but to resign, break up the commission, and leave the work wholly unfinished, and in a condition which would compel the whole party, when reorganized, at great expense to return to San Diego, or go back to my post. As the young men upon the commission were employed at very low wages, and held by a mere pledge of honor to remain whilst I was in the service, a resignation on my part would have been the signal for disbanding. The only letter ever received by me from the Department (except my final discharge) was dated 15th March, 1849,



directed to "San Diego, Mexico," and delivered to me by the Mexican Commissioner, on the 3d of July. In it I find these words:

"SIR: I have to inform you that Congress, at its late session, omitted to pass any act prescribing the amounts of the salaries of the civilians attached to the commission of which you are the head. Consequently, until this omission be remedied, compensation for your services as commissioner, and for those of Mr. Gray, as surveyor, cannot be lawfully paid; and no charge for salary, on the part of either of you, can properly form an item in the statement of your account to the Treasury."

Now, I had gone into the field with instructions fixing my compensation, and, as the joint commission was not yet organized, I would have been justifiable in resigning at once. How, then, stood the case in December, when I visited San Francisco? I had been informed, on the 3d July, that I could draw no pay. I knew that letters were in the country, and had been for five months, superseding me. My drafts had been protested. Funds had been refused to the disbursing clerk, who had been sent to Washington, to carry on the work. I had exhausted all the means at my command. No intelligence could be had from the Department. There, in that city, was a wide field for the legal profession—yielding at the rate of from \$30,000 to \$60,000 per annum! Will any gentleman undertake to say, under these circumstances, that I would not have been justifiable in throwing up the commission, and entering at once upon my profession? But I had undertaken to discharge a high and responsible duty under a treaty which terminated a bloody war with a sister Republic, and I feared that, in my leaving the field, the Mexican Commissioner would return to his home, and his Government find a pretext for postponing the completion of the work to an indefinite period. The State of California, (then organized,) as well as the Federal Government, were deeply interested in having the boundary line established at once. An immense number of emigrants were daily arriving in that State. A sense of duty to my Government—although I might have no respect for those who were then administering it—induced me to return again to San Diego and proceed with the work. I reached that place on the 3d January, 1850, and continued actively engaged until the 16th February, when, having accomplished all that could then be done, the joint commission was adjourned to meet at El Paso, on the Rio Grande. I will trouble the Senate to read so much of the Journal as will show how the matter was closed:

"It was determined, as nothing remains to be done on this side of the line, except that which has already been provided for, and as it is impracticable, in the present condition of California, to advance from this direction beyond the mouth of the Gila, and towards the frontier of New Mexico, that the commission should adjourn to meet at El Paso, in the State of Chihuahua, on the first Monday of November next."—*Extract from Journal, 15th Feb., 1850.*

Two days after the adjournment, I received the following honorable discharge from the Department:

DEPARTMENT OF THE INTERIOR. }  
WASHINGTON, December 19, 1849. }

SIR: The direction of the commission for running and marking the boundary line between the United States and Mexico having been transferred to this Department, I have to inform you, in case, on the receipt of this, Colonel Fremont shall not have entered upon duty as your successor, that your services are no longer required in said commission; and to request that you will immediately turn over to Major W. H. Emory all the books, papers, and other property, in your

possession, belonging to the United States, and pertaining to the boundary service; for which you will be kept supplied in duplicate, the one to be forwarded to this Department, and the other to be preserved by yourself. Your services, as proposed by the Secretary of State, under date of the 26th of June last, that, on account of your instructions to render to the Public Auditor quarterly accounts of your expenditures, with the necessary vouchers, payment of your drafts was suspended. As this barrier to payment still exists, I desire to call your attention to the importance of an early adjustment of your accounts. T. EWING.

Hon. JOHN B. WELLER, San Diego, California.

This letter came in very opportunely, as the work for the season had just been closed. It will be perceived that it was written whilst Congress was in session. To this letter I responded on the 1st March, in the following terms:

SAN DIEGO, March 1, 1850.

SIR: I have the honor to acknowledge the receipt of your communication of the 19th December last, informing me that my services as commissioner upon the boundary survey were no longer required. As soon as Major Emory arrives, to whom I am directed to turn over books, papers, &c., it will give me very great pleasure to withdraw from the commission, especially since the business has been transferred to "the Department of the Interior."

The letter to which you allude, from the Secretary of State, under date of the 26th of June, has never been received. Diligent search has been made for it in the post office, but it cannot be found. It may have been directed in the same way his communication of the 15th of March was directed, (San Diego, Mexico,) and if so, its failure to reach me is easily accounted for. A little knowledge of the geography of a country, oftentimes facilitates the transmission of letters.

It is unfortunate for me, although fortunate for the Government, that that letter was not received; *unfortunate*, because its receipt would have justified me in withdrawing from the commission at once, and engaging in business more agreeable, and much more profitable than the public employ. Besides, I would not have made myself liable to suits for damages upon protested drafts. It is fortunate for the Government, because its reception would have necessarily disbanded the commission, and suspended the work for an indefinite period. The Mexican Commissioner could hardly have been expected to remain in the field until it suited the convenience of our Government to provide the necessary funds to prosecute the work. In this event, instead of completing the line from the Pacific ocean to the mouth of the Gila river, (except placing monuments at the places agreed upon,) as is now the case, the commission would have been broken up, and compelled to reorganize and reassemble at San Diego at some future day. This would have subjected the Government to an additional expense of at least \$50,000. So that whilst the failure of that letter to reach its destination may, as it already has, inflicted injury upon me individually, the Government has profited very much. This portion of the work, which has always been regarded the most difficult and most important, is now nearly quite finished, and the joint commission adjourned on the 16th ultimo, to meet at El Paso, in the State of Chihuahua, on the first Monday of November next. All this has been accomplished in despite of the peculiar situation of affairs in this country, and the embarrassments which the Department has seen proper to throw in our way.

In December last, I received from the clerk and disbursing officer of the commission, who had been sent to Washington under my orders, a copy of a letter addressed to him by the Secretary of State under date July 20, informing him that my drafts on the Treasury could not be paid until vouchers for the whole amount received were adjusted by the proper officer! How the Department expected the Commissioner to obtain vouchers, and transmit them to Washington *without funds*, is to me incomprehensible. Did the Secretary expect that the Commissioner would be able to have vouchers at all times in that city sufficient to cover his drafts? Five thousand miles or more from the accounting officer, was it supposed that he could show the Department in advance the precise manner in which he proposed expending the proceeds of his drafts? But payment is suspended because the drafts there exceeded the vouchers returned some \$8,000! If my vouchers had been in Washington for that balance, does it not follow, as a necessary consequence, that I would have been in the field without a single dollar? Was the Commissioner to have no funds on hand to meet the exigencies of the service? But there is a broad insinuation in the letter of the

just that it is only necessary for the Commissioner having removal from office." If this had been a dishonorable act; but the will show that it is entirely destitute of the insinuation as it deserves.

For \$10,000, and protested for non-payment, has been sent back here for collection. That draft was negotiated by Colonel Frémont at my request, and the money has been fairly and honestly expended for the benefit of the Government. At the time it was placed in his hands, I had not a dollar with which to pay the employees, or even defray the necessary expenses of the commission. Without the proceeds of that draft, the work would have been suspended, the American Commissioner driven from the field, and the employees left at San Diego, without the means to subsist or get away. And now, whilst the Government holds my vouchers for nearly if not the whole amount of the appropriation, exclusive of any compensation, &c., I am left to answer whatsoever damages the holders of that and other drafts may obtain against me! I am not only deprived of my compensation for services rendered, at a great pecuniary sacrifice, but my private funds have been seized to cover protested drafts, the proceeds of which have gone to the benefit of the Government.

Other parties have been sent into California upon public service, and I challenge comparison between their labors, their expenses, and those of the boundary commission. Whilst public business has been suspended, and all classes wildly excited by the rich mineral discoveries of this country, the boundary survey has been steadily prosecuted. Not an employee, whether engineer or servant, deserted, nor did any of them ask for discharges until reliable information reached this country that a new Commissioner was to be appointed. I had selected men upon whose personal pledge of honor I could rely, and they did not deceive me. There was scarcely a man upon the commission who could not have obtained from private individuals *three times* as much as was allowed them. Let the wages given these men be compared with the wages allowed for similar services in this country, and I trust the Department will be satisfied that the charge of extravagance which it has countenanced is without the shadow of truth.

I must again invoke most earnestly the attention of the Department to the satisfaction of the just demands against the commission. Injustice should not be done to the employees, merely to gratify the prejudice which may be entertained against the employer. For myself, I am content to await the action of Congress, confident that that branch of the Government will, in the end, do me justice.

I have the honor to be, very respectfully, your obedient servant,

JOHN B. WELLER.

Hon. THOMAS EWING,

Secretary Department of Interior.

Now, sir, I have a word of comment to make upon this letter, by way of showing that the Department practiced a base fraud upon the Senate, in order to do injustice to me. On the 21st day of May, 1850, the Secretary of the Interior sent in the document which I now hold in my hand, purporting to contain all the correspondence up to that time with the boundary Commissioner. In this document, he uses the following language:

"This, together with what I had the honor to communicate to the Senate on the 27th February ultimo, comprises all the information in the possession of the Department, relating to that service."

The letter which I have just read, was received at the Department, as the chief clerk informed me, on the 10th of April, and had been on file in the office, *forty-one days* before this document was sent to the Senate! Why was this letter suppressed? Did it present the infamous course of the Department in such a light that they deemed it necessary to withhold it? Would an honest officer, who did not fear the truth, practice so base a fraud? I have as much charity as most men, but I have not enough to believe that the omission to send in that letter was unintentional. It was one of those mean and contemptible tricks for which the then Secretary of the Interior has been notorious for

years past. This may be strong language, but I am speaking of

"A man whose cold, callous breast conceals  
A little soul, that never feels."

But, sir, this is not all. What has become of my letters to the Department under date the 15th May, 1849, and the 28th July, same year? These papers are nowhere to be found. I have no evidence that the latter was received at the Department, and therefore it is possible it may have miscarried; but I find upon this document conclusive proof that the first was on file. The Secretary of State, in his letter of the 28th June, says:

"Your letter from Panama of the 15th ultimo, with the accompanying list of persons in the service of the commission, was received at this Department on yesterday, the 27th instant."

It will be seen that the Secretary, in his letter of the 26th June, (transmitted to Colonel Frémont, but never delivered to me,) utters the following complaint:

"It is to be regretted that you should have omitted to comply with that part of your instructions which requires you to furnish the Department with a list of the persons employed to assist you in the discharge of your duties. In the absence of such a list, and a statement of the compensation stipulated to be allowed to each person, it is impossible for the Department to form an estimate of the probable expenses of the commission."

"Your instructions also direct you to transmit your account of those expenses at the close of every quarter, with the vouchers requisite for adjustment of the account at the Treasury."

Why has this letter been suppressed? It was received, as I have already shown, the day after his order superseding me, and contained a list of the employees, together with vouchers amounting to upwards of \$24,000! Its publication would of course have shown that the very foundation upon which he attempts to base the removal was swept away. Three calls have been made by the Senate for the correspondence since that letter was received, and why was it not sent in? Its publication would have shown the number of the employees, and the compensation allowed to each, and thus prevented the Department from charging me with "extravagance" and having an "unnecessary number" of men on the commission! But, notwithstanding all the calls made upon the Department, the Senate has been kept in profound ignorance as to the number of persons employed by me, and the salaries stipulated to be paid. This letter was delivered by the disbursing officer of the commission, who had been dispatched from Panama for the express purpose of adjusting the account. Now, I demand to know whether this official villainy is sanctioned by any member of this Senate? I venture the assertion that the records of no Administration will present such an infamous attempt to prostrate a political foe. I have fastened the fraud upon them, and no human ingenuity can extricate them. Little did they think whilst engaged in this unhallowed plot, that the time would soon arrive when he whom they sought to ruin would stand up here in the Senate and expose their infamy to the world. But the day of reckoning has come, and an intelligent

\*NOTE.—In the debate which took place in the Senate in January, 1851, the distinguished Senator from Michigan [Mr Cass] proved conclusively that not more than half the time fixed by law for the adjustment of my accounts had expired when the order for removal was issued! So clearly was this established that Secretary Ewing was compelled to abandon the ground.



people will not be slow in assigning them their proper position in society. After the lapse of years the prosecuted has become the prosecutor, and now demands the conviction of those who have abused the public confidence, and disgraced the high places which they occupied.

There is another circumstance in the singular history of this case, which I should like to see explained. The following letter is found amongst the correspondence sent to the Senate on the 28th of February, 1850:

PUEBLO OF SAN JOSE, August, 1849.

SIR: I have had the honor to receive, by the hands of Mr. Beale, United States Navy, your letter conferring upon me the post of Commissioner of the United States for the determination of the boundary line with Mexico.

I feel much gratification in accepting the appointment, and beg to offer through you to the President, my acknowledgment for the mark of confidence bestowed upon me, and which he may be assured is fully appreciated.

Colonel Weller is now at San Francisco, having just arrived from the South. His reports of the actual state of the surveys will probably suggest instructions for me. I will see him in a few days, and after having made myself acquainted with the condition of work, shall be able to communicate understandingly with the Department.

I have the honor to be, with much respect, your obedient servant,

J. C. FREMONT.

HON. JOHN M. CLAYTON, Secretary of State.

Now this proves an acceptance; but when did Colonel Frémont resign? This document purports to contain all the correspondence upon the subject of the boundary commission, up to the 20th of May, 1850, and there is no information here touching this matter. Colonel Frémont published a letter in San Francisco, early in December, 1849, in which he said he had resigned the office. On the 1st of January, 1850, he left California for this city, as one of the Senators elect. Where is his letter of resignation? Was there anything in it which made it expedient to suppress it? I leave every gentleman to draw his own conclusions.

On the 7th of January, 1851, this man renewed his brutal attack upon me, and then used the following language:

"Thus it appears, Mr. President, that Colonel Weller was a defaulter to his own county, at the time of his appointment, in a large amount, and it was a fact known to me at the time of his removal—not then by the certified report of the master, but by undoubted information. And it is proper to add, that he was known to be habitually intemperate. Nobody denies this; nobody doubts it. The duty he was to discharge was exceedingly important, as he had the command of men, and the control of a large sum of money. There was placed in his hands, immediately upon his appointment, upwards of \$33,000 of the public money."

And now, sir, for four years past, this charge of being a defaulter to Butler county, Ohio, has been circulated in almost every Federal sheet in the Union. In 1848, when I was canvassing Ohio for Governor, it constituted the theme of every stump orator who chose to play the blackguard in that campaign. It was presented in the public press in every shape and form which the ingenuity or malignity of unprincipled men could give it.\* I gave them the full benefit of the charge, by making no reply in any other county than the one in which it was said this defalcation existed. Now, what was the result of that election? I received some three hundred votes less than those given to my competitor. And how stood the case in the county of Butler? In that county I received a majority of upwards of fourteen hundred, being more than had been given in the county for many

years. Does any sensible man believe such would have been the result, if any dishonor rested upon me? Can it be pretended that the people of that county did not understand the whole matter?

Sir, I might rest, if I chose, upon this verdict of those who were familiar with all the facts, and who had known me all my life. But I prefer, as the matter has given my enemies so much trouble, to explain it for their satisfaction, at least.

On the 28th March, 1837, an act was passed by the Legislature of Ohio, providing for the distribution of the "surplus revenue," (received from the Federal Government) amongst the several counties of the State. The ninth section of said act commences in this wise: "Said fund commissioners shall have general power to control and manage said fund for the best interests of the county," &c. The section then goes on to provide that they may, if they see proper, invest the fund in bank, railroad, or turnpike stock, &c., at their discretion.

The 10th section provides, that if said fund is not so invested, it may be loaned out to individuals in sums not less than \$100, at seven per cent. per annum. Applicants to be residents of county, and give security for the payment, &c.

It will be seen that this money was placed in the hands of the commissioners for the *express purpose* of being *invested or loaned out* at their discretion. Under the provisions of that act the commissioners would have had a right, upon giving security and paying the interest, to have taken the whole of the fund. In some of the counties this course, to a great extent, was adopted. *No one pretends that there is anything in the law which excludes, directly or by implication, the agents or commissioners from becoming borrowers if they chose.* The commissioners loaned a small portion to the county, and invested the balance in bonds and mortgages. I was not amongst the original borrowers. I was appointed one of the commissioners in 1838, and acted as agent for the board. From 1839 to March, 1845, I was a member of the other branch of Congress, and necessarily absent a large portion of time. During that period borrowers frequently paid in to my agent considerable amounts, and as I was responsible for the interest if applications were not made very soon, under my instructions this money was used for my benefit. The security for its repayment was in my official bond for \$40,000. In 1848, in order to render the security still stronger, a mortgage was executed upon all my real estate in that county. Thus, it will be discovered that I was no more a "defaulter" than any other person who owed the fund commissioners, and had not the means at command to discharge the debt.

When the books and bonds, &c., were turned over to the auditor and treasurer, in 1848, (who had been made the commissioners,) suits were instituted against a large number of borrowers, and amongst others, a bill was filed against me. The commissioner appointed by the court reported, as I have since learned, a balance due from me of something over \$16,000. This report has not been confirmed, but in the mean time my agent in my absence has paid \$13,500, and I have been ready to pay the balance whenever it suits the court to pass judgment upon the report.

Here, then, is the whole of this "defalcation," about which so much has been said and written.

\*See Louisville Journal, and other infamous sheets.



...s lost, or will  
With a knowl-  
as a particle  
continue to  
expectation of  
that I have  
their abuse has,  
towards my  
success, and as I am still a young man, upon the  
sunny side of forty, I could not very well dispense  
with it.

In another portion of the speech upon which I  
am commenting, in speaking of General Lane  
and myself, he says:

"They belong, each, to his own separate class of office-  
holders—Colonel Weller to those who were wholly unfit  
for the office to which he was appointed, incapable of dis-  
charging its duties, and unfit to be trusted with the funds  
necessary to its execution. \* \* \* \* \*

*"It is proper to add that he was known to be habitually  
intemperate. Nobody denies this—nobody doubts it."*

To what depth of meanness must this man have  
sunk before he could, for political purposes, have  
stood up here in the Senate and preferred such an  
accusation against one with whom he had no per-  
sonal acquaintance whatever? It is scarcely neces-  
sary to comment upon this charge. There are  
gentlemen here who have known me, personally,  
for more than twelve years, and there is not one  
of them who will not give the *lie direct* to the  
charge. Go, ask the people of my old district in  
Ohio, where I lived from boyhood until three  
years ago. Go, ask those who have been person-  
ally associated with me in California, and who  
have had every opportunity of knowing my habits,  
and all of them will pronounce this charge an  
unblushing falsehood. And yet, sir, a man clothed  
with Senatorial robes, stood up here, and before  
the whole country, gave utterance to this base  
calumny! A calumny which ought, under the cir-  
cumstances, to consign his name to eternal infamy  
and disgrace. He who would take advantage of  
his Senatorial position to ruin the private charac-  
ter of a political opponent, by the assertion of an  
unmitigated falsehood, is unfit for the walks of  
civilized life. Nothing short of omnipotent power  
can ever convert such a creature into a *gentleman*.  
There should be

"—put in every honest hand a whip  
To lash the rascal naked through the world."

The next sentence to which I invoke attention  
is in these words: "There was placed in his hands,  
immediately upon his appointment, upwards of  
\$33,000 of the public money." Now, Mr. Pres-  
ident, like the other statements, this is wholly  
false. The record before me will show that less  
than one half this amount (\$15,000) was placed  
in my hands, and this was the whole amount re-  
ceived by me *directly* from the Government. With  
this amount I left for California. So that here,  
in a matter of comparatively very little import-  
ance, this ex-Senator, from the force of habit  
alone, found it impossible to tell the truth. In  
this regard he bears a striking resemblance to the  
miserable creature of the Louisville Journal.

Mr. President, there is a Senator now upon this  
floor, [Mr. SMITH,] to whom I must pay my re-  
spects. He, too, a year preceding the attack of  
ex-Secretary Ewing, found it necessary, in order  
to sustain the Administration then in power, to  
assail me. I find by the Congressional debates that

this Senator, on the 23d of March, 1850, used the  
following language:

"Colonel John B. Weller, commissioner to run the  
Mexican boundary, has been removed, and I beg to assure  
the Senator for good and sufficient reasons. The papers in  
the case have been communicated to the Senate. I have  
examined them carefully, and it appears that he violated in  
the grossest manner the instructions of the last Executive.  
In addition, he has squandered the appropriation and over-  
drawn the amount by several thousand dollars."

Now, sir, the rules of the Senate will not per-  
mit me to characterize this allegation as it deserves.  
But I may be allowed to say that it lacks one of  
the essential elements necessary to give force to a  
charge—I mean *truth*. I have examined these  
papers "carefully," and I should be glad to know  
where he finds the evidence that the Commis-  
sioner "had violated in the grossest manner the in-  
structions of the last Executive?" I also demand  
to know where he obtained the evidence "that  
he had squandered the appropriation and over-  
drawn the amount by several thousand dollars?"

Sir, this is a grave accusation against a public  
officer, and no gentleman would make it, unless  
sustained by proof. So far from "squandering  
the appropriations," the gentlemen upon the  
commission will bear testimony that the *most rigid  
economy was practiced*. A comparison of my ac-  
counts with those of other public officers in Cali-  
fornia, will show that I paid for labor, as I have  
remarked before, scarcely *one fourth* as much as  
was paid by other persons! And yet, sir, a Sen-  
ator has the audacity to charge me with "squan-  
dering" the public money! "He has overdrawn  
the appropriation by several thousand dollars!"  
I have already shown that this charge is entirely  
destitute of truth. But I repeat again, that no  
draft exceeding the appropriation ever was drawn  
by me at any time. On the contrary, the drafts  
drawn fell a little short of the appropriation? In  
the absence of any explanation or apology, I am  
compelled to place him in that class of politicians  
who are very unscrupulous as to the means they  
use in assailing an opponent. Having said thus  
much, Mr. President, in my own defense, I may  
be permitted before I conclude, to allude to some  
matters connected with the commission since my  
removal.

On the 22d day of March (nearly four months  
ago) a resolution was adopted by the Senate, on  
my motion, calling upon the Secretary of the In-  
terior to send in copies of all correspondence and  
papers connected with the boundary commission  
which had not previously been published. To  
this resolution no response has been made. This  
delay is certainly extraordinary. My relations  
with the present Secretary have always been of a  
friendly character, and I have no disposition  
whatever to do him the slightest injustice. The  
delay may have been unavoidable, but I am in-  
clined to the opinion that influences have been at  
work somewhere in his office which have pre-  
vented an earlier response, and which could have  
been resisted if the Secretary had given a little of  
his personal attention to this matter. Others less  
charitable might suppose that the intention was  
to send in this document, which is necessarily  
voluminous, at so late a day that, in the present  
deranged state of our public printing, it could not  
be gotten from the press during this session of  
Congress. The want of these papers will prevent  
me from investigating the conduct of the present

Commissioner; but there are some facts connected with this subject to which I must invoke the attention of the Senate now. They are facts which should be known to the public.

It seems that Mr. Gray, the surveyor, was stricken down by disease for several months, and this, together with the course pursued by the Department towards him, prevented his reaching El Paso on the 1st of November, 1850, the time fixed for assembling the joint commission. To guard against accidents of this character, an agreement made by the Mexican Commissioner and myself was entered upon the journal. He reached the field of labor on the 19th of July, 1851, and found that Commissioner Bartlett had already agreed to fix the initial point on the Rio Grande at latitude  $32^{\circ} 22'$  north. This, after examination, did not meet the approbation of the surveyor; but, on the contrary, he presented an argument which, I think, will be found unanswerable against it. A copy of this was transmitted to the Department under date of the 3d of August. On the 31st of October following, the Secretary of the Interior addressed a letter to the surveyor, in which he says:

"As the Commissioners coincide in opinion respecting the correctness of their operations, and their results, and are satisfied that the initial point has been accurately ascertained and determined, it is very desirable that the official documents necessary to the settlement of this important point should be at once perfected. You are requested, therefore, to remove the only obstacle which now exists to the completion of this branch of the work by affixing your signature to the requisite papers."

This was an unwarrantable assumption of power. The Secretary had no authority whatever to issue such an order. The treaty of Guadalupe Hidalgo, in the fifth article, provides that

"The two Governments shall each appoint a commissioner and a surveyor who, before the expiration of one year from the date of this treaty, shall meet at the port of San Diego and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep journals and make out plans of their operations; and the result agreed upon by them shall be deemed a part of this treaty, and shall have the same force as if it were inserted therein."

The surveyor was an officer under the treaty, a component part of the joint commission, to whom alone the power was given to determine this question. How far either Government can supervise or control the acts of that commission, I may at some future day discuss. But surely the Secretary had no power whatever to direct the surveyor to agree to a line which in his judgment was manifestly wrong. This must make him a mere tool in his hands. The Secretary, however, *four days* afterwards, finds a more legal, and certainly a much more effective plan to carry out his object. This letter, dated 4th November, very politely informs him that "*his services as surveyor are no longer required!*" The same mail which carried out the order to sign the papers conveyed the letter of dismissal! *Four days'* sober reflection seems to have satisfied them that the surveyor would disregard this extraordinary order!

I understand that Colonel Graham, a gentleman ranking amongst the very highest in his profession, who had been detailed from the Topographical Corps as the chief astronomer of the commission, also refused to recognize the line as fixed by the Commissioner.

Now, Mr. President, what will be the effect of this agreement, if signed by the new surveyor, or

sanctioned by the Government? It will give to the Mexican Republic some twenty-two minutes of latitude, and three degrees of longitude, which in right and justice belong to the United States; the map now before me, exhibiting this territory with the line agreed upon by Mr. Bartlett, and the one marked by the surveyor, presenting an area of nine thousand five hundred square miles. That the southern line here marked is the correct one, I have scarcely a doubt; but as the treaty seems to contemplate that the branch of the Gila, which it is intended to pursue, would be found by running "northward," it is questionable whether this northwest line is correct. At all events, at least five thousand square miles of American territory has been given away. This is represented by all as the very first quality of land and amongst the most beautiful country in the world. Upon this territory is situated the flourishing town of Mesilla, (Messey,) settled by Americans and Mexicans. The Mexican Commissioner, a very shrewd and intelligent man, who, from a residence of some years in that section of country, was intimately acquainted with all the localities, unquestionably obtained a decided advantage in this settlement.

The great object of the Mexican representatives, who negotiated the treaty of peace, was to retain the town of El Paso. This is clearly shown by the correspondence. Both Governments intended that the line should pass immediately north of that town instead of thirty miles. But as I am deprived by the Department of the information necessary to a full and fair discussion of this point, I must pass it over for the present. At some future day of this session, unless anticipated by others, I may discuss it at large. I think I will be able to show that the conduct of the active and energetic surveyor in refusing to agree to the point selected, so far from being censurable, was such as to entitle him to the thanks of every one "who loves the right and hates the wrong."

In the month of March, 1851, Colonel J. McClellan, of the Topographical Corps of the Army, who had been detailed as chief astronomer to the commission, caused certain charges to be filed in the Department against the chief, J. R. Bartlett. A copy has been transmitted, upon my motion, to the Senate, and now lies before me. These charges, Senators will observe, are of the most serious character. If true, the Commissioner ought to be recalled at once; if false, the officer who has used his position to prefer them ought to be dismissed from the Army. At all events, one would very naturally have supposed that the Department would have considered these charges of sufficient importance to have ordered a full investigation. They were preferred by a gentleman of high rank and character in the Army, more than a year ago, and the only investigation had is disclosed in the letter which I now hold in my hand. The Secretary, after remarking that no formal arraignment had been directed, says:

"I did, however, make such an investigation of them as to satisfy myself that they were preferred under such circumstances, and sustained by such testimony as not to demand a more formal examination. \* \* \* \* \*

"The explanations of the Commissioner in regard to these charges, and the other documents relating thereto, will be found among the papers already communicated to the Senate in answer to the resolution of the 2d of April last."

The testimony submitted to the Department on this subject is to be found in the document now



examined it with some care, and to his disposition to do the Commission justice; but I must say that the evidence has entirely different impression upon me. It seems to have been produced by the Secretary. But we are so constituted that that testimony which is given in relation to one shall fall far short of satisfying another. The charge against the commissary, for issuing improper supplies, &c., is sustained by twenty-seven witnesses, and, so far as I can see, denied by no one.

The charges against the Commissioner, which impeach his integrity as a public officer, are sustained by the testimony of five witnesses, (including Colonel McClellan); a part of them are controverted by three witnesses, (including the Commissioner.) Two witnesses impeach the character of one who testifies for the prosecution; but his character is sustained by three witnesses.

The most serious charges are:

1st. "Conniving at the conversion to private uses of the transportation provided by the Government for the use of the boundary commission."

2d. "Unpardonable mismanagement of the public interest and funds intrusted to him."

These charges are clearly sustained by the testimony of four witnesses, and denied by one. Thus stands the evidence, as I find it upon the record; and how the Secretary could have been satisfied upon this proof of the innocence of the Commissioner, is to my mind, incomprehensible. If this be all the evidence on the subject, I undertake to say no jury in the world would hesitate a moment in convicting. The proof was too strong, in my judgment, to be rebutted by "a personal conference with George F. Bartlett, the brother of 'the Commissioner, and the quartermaster [he means commissary] of the commission, who was 'implicated in the charges,' &c. Nor will it do to meet this testimony by the simple assertion that "the witnesses had been dismissed from the commission?" It was under the direct and positive orders of the Secretary himself, that a large number of the employees were discharged, because their services were not required. Is this dismissal, therefore, a sufficient reason why their testi-

mony, upon honor or under oath, should be rejected? A statement of the question is sufficient. Nor will it do for the Secretary to claim credit for dismissing Commissary Bartlett, because "his near relationship to the Commissioner gave ground for injurious suspicions." It is true, under his orders, he was dismissed from this post. But I have a letter from a gentleman of character and respectability, containing the information that he is now the "acting agent of the commission," with a better salary than he received before, and shaving orders drawn by the employees on the commission at fifty per cent. discount!

As to the truth or falsity of the charges preferred against the Commissioner, I express no opinion, but have contented myself with speaking of the testimony as it now stands upon the record. I know that great injustice is oftentimes done to public officers by preferring charges against them whilst they are engaged upon distant service. He may be able to explain or contradict this evidence, and it would be unfair, at all events, to condemn him until an opportunity has been given for reply. But the public interest clearly demands a full examination into this whole matter, before another dollar is appropriated, whilst the work is under his control. If it is the pleasure of the Senate to adopt the resolution which I have submitted, I must decline, for reasons which will naturally suggest themselves to the minds of all, from serving upon that committee.

For the present, I am done. I deeply regret that, in vindicating my character from the foul aspersions cast upon it by men in power, during an absence of three years, I have been compelled to trespass so long upon the time and patience of the Senate. But it was due to those with whom I am politically associated; it was due to the generous friends who have always reposed confidence in me; it was due to my family, that I should meet the accusations of my enemies, and prove, by the record, that they were unfounded. The facts are now submitted to the people, and I am content to abide the judgment which they may pass upon them. Truth has lost none of its power, and must, in the end, prevail.











## HON. MR. WELLER, OF CALIFORNIA,

ON

THE MEXICAN BOUNDARY COMMISSION—THE RIVER AND  
HARBOR BILL—THE FUGITIVE SLAVE LAW,  
AND CALIFORNIA LAND TITLES.

DELIVERED IN THE SENATE OF THE UNITED STATES.

## MEXICAN BOUNDARY COMMISSION.

FRIDAY, August 27, 1852.

The Civil and Diplomatic Appropriation bill being under consideration—

Mr. MASON said: Mr. President, I offer a further amendment to the bill, not, however, by instruction of the committee, but of my own motion. There is a provision in the bill "for running and marking the boundary line between the United States and Mexico under the treaty of Guadalupe Hidalgo, \$120,000. I propose to amend this clause by adding to it:

*Provided, That no part of this appropriation shall be used or expended until it shall be made satisfactorily to appear to the President of the United States, that the southern boundary of New Mexico is not established by the Commissioner and Surveyor of the United States further north of the town called Paso than the same is laid down on Disturnell's map which is attached to the treaty.*

Mr. WELLER said:

Mr. PRESIDENT, I regret very much that I am compelled to say anything to-night on this subject; but I am, from convictions of duty, driven to the necessity of moving to strike out this appropriation from the bill. There are many reasons which I could assign, if it were necessary, that the public interests demand that no further appropriation should now be made for this Commission. On the 22d day of March last, more than five months ago, I submitted a resolution to the Senate, (which was adopted,) calling upon the Secretary of the Interior for information as to the manner in which the appropriations heretofore made had been expended. There have been appropriations made by the Congress of the United States for the years 1850, 1851, and 1852—I speak of the time which has elapsed since I headed that Commission—amounting to the sum of \$365,000. Three hundred and sixty-five thousand dollars of the public money have been appropriated and expended. Early in the month of March last, I was anxious to ascertain the manner in which this money had been expended, in order that, if a call were made for further appropriations, we might be enabled to understand the propriety of making them. More than five months, as I have said, have elapsed since that resolution was adopted and sent to the Department of the Interior; and up to this hour the Secretary has refused to let this branch of the Government know how that money

has been expended! He seems to have assumed the ground, that under his Administration the people have no right to know what disposition has been made of their money. If this be the policy of the Whig party, I trust the people will see the necessity of ejecting them from power.

Mr. PEARCE. I would explain to the Senator that it has been communicated to me by the Secretary of the Interior—in reply to an inquiry which I addressed to him recently, after a conversation which I had with the Senator—that those accounts were not kept in the Department of the Interior, but that he had sent a direction, or a request, to the office in which they were kept, that copies of them should be made out and sent to the Senate.

Mr. WELLER. Well, sir, it is a matter of very little importance to me whether it be the fault of the Secretary or of the auditing officer of the Department. I am complaining of this Administration and of the Whig party, and they may divide the responsibility if they choose, between them.

When I was Boundary Commissioner, I was charged with "squandering the public money." Such an allegation was made by a Senator now on this floor, [Mr. SMITH,] who has not attempted to prove it, although I have challenged him to do so. A resolution was offered, calling for my accounts and all of my vouchers, in order that I might be convicted—as the accounts were then incomplete—of squandering the public money. How long do you think it took a Whig Administration then to answer that resolution? The record in my hand shows that the resolution was offered upon the 19th day of February, 1850, and upon the 27th day of the same month it was answered, transmitting the accounts, &c. It took precisely *eight days* to answer a call for all my vouchers and accounts. An answer was then promptly transmitted by the Department, showing a disbursement of nearly \$50,000. But here, now when I stand upon this floor and ask the Administration to give me an account of the manner in which my illustrious successor has expended the public moneys, five months have elapsed and they dare not give me the information! This unaccountable delay fully justifies the inference that the accounts would not bear public scrutiny. Do you call this honest and fair? Is this even-handed justice? Do the interests of the Whig party demand a suppression of the information called for?

The Senate will perceive that with this Administration, there is a very marked difference between a Democratic officer and a Whig officer! When they supposed that the production of those accounts of mine would enable them to sustain their charge against me of squandering the public money, and justify them in publishing me to the world as a "defaulter," those accounts were promptly sent here showing, as I have said, an expenditure of \$50,000. But after all their charges of "extravagance" and "defalcation," here and elsewhere, they were unable to settle up my accounts and pay over a balance of some \$5,000 which they owed me!

But here has been an expenditure of \$365,000, and there is not a Senator on this floor who is permitted to know how one dollar of that money has been expended, and still they ask us now for \$120,000 more to prosecute this work! I must be satisfied that the amount heretofore appropriated has been honestly expended before I will consent to give you any more.

This officer was instructed to return his vouchers quarterly. Is there any difficulty in showing us these accounts, if all is honest and fair? How long will it take the accounting officer to make out the returns, and transmit them to the Senate? If they cannot transmit all, why not send us his settlements for some of the quarters of the past two years? If they cannot account for the whole appropriation, why not show us how some portion of it has been expended? If they cannot do either, why not honestly avow it? If the charges which your Whig Administration falsely made against me, are true as to my successor, depend upon it the day of exposure will come. And yet, whilst we are kept in the most profound ignorance, we are called upon to appropriate \$120,000, which, together with appropriations unaccounted for, will make nearly a half million of dollars! To this fact I desire to call the attention of the Senate and the country. It may enable the people to see how public affairs are managed by those now in power. It may seem to enlighten them as to their duty in the coming contest.

There is another thing connected with this matter to which I desire to allude. I found very recently, for the first time, that the Mexican Minister in this city had addressed a letter to the Secretary of State, under date of April 20, 1850, in which he complained of the delay of the American Commission in the prosecution of that work. I will read you a short extract from that letter:

"From the information and data which the Government of the undersigned has collected together, it must be confessed that if the task of defining the boundary line has been suspended and postponed until the month of November of the present year, it has resulted entirely from the fact that the Commissioners of the United States have frequently been absent in California, and that latterly the said Commissioners, with some exceptions, have not participated in the operations of settling the boundary. It was these same Commissioners of the United States who proposed as the only means by which these important labors could be continued, that the prosecution of the same should be delayed until next November. General Garcia Conde, chief of the Mexican Commissioners, in agreeing to this proposition, only yielded to the force of necessity, and although this chief found himself encompassed with difficulty to continue in the discharge of his duty, yet he was determined, as he intimated it to the United States Commissioners, not to interrupt the operation, the management of which had been intrusted to him by his Government."

Now, sir, I am not aware that the Secretary of

State ever responded to this allegation. He was quite willing that I should be censured. Here was a grave complaint—a complaint preferred by the representative of a foreign Government, that the Commissioner (he seems to have forgotten that there was but one) on the part of the United States was delaying the prosecution of that important work. To this letter, I say, the Secretary of State never made any response, although the Department of the Interior had then in its possession abundant testimony to show that it was utterly false and unfounded. They seemed to be quite willing that I should be convicted of delaying the work.

Mr. CLARKE. Will the honorable Senator tell me what Commissioner is alluded to in the letter?

Mr. WELLER. I am the man. I am the Commissioner alluded to. By the way, however, there is another letter from the Mexican Minister which I might read, complaining of a much more grievous offense on the part of my illustrious successor, whom my friend has so often defended. In that letter the Mexican Minister has complained that he (the American Commissioner) has organized parties for the purpose of exploring the country, examining its minerals, and hunting up all the bugs in the country! I believe he has parties in the field examining the geology and mineralogy of that country, and to this I presume the Mexican Minister alludes. The appropriations have been made for the sole purpose of running and marking the boundary line between the two Republics, and it would, perhaps, be somewhat difficult to justify the Commissioner in organizing these parties. If the accounts had been sent in under the call of the Senate we might have been enabled to ascertain how much money has been expended in this way.

But I was speaking of the letter complaining of my delay. The record then in the Department of the Interior showed that, so far from delaying the prosecution of the work, the delay had been the fault of the other side. I reached San Diego, the point fixed upon by the terms of the treaty, on the 31st of May,—one day after the time agreed upon,—and the Mexican Commissioner and his party did not arrive until the third day of July; and the Joint Commission was organized on the 6th. I was, therefore, compelled to remain five weeks after the time fixed upon for the meeting, wholly inactive, because of the failure of the Mexican Commissioner to meet me. As I was fully aware of the sensitiveness of the Mexican nation, I would not suffer my party to make any movements whatever in executing the work, until the representative of that Government arrived. I did not intend to give them the slightest pretext for complaint. Of these facts the Department had official knowledge, at the time the complaints were made.

But there is another point in this letter of the Mexican Minister, to which I invoke the attention of the Senate. He says that it was the fault of the American Commissioner that the Commission was adjourned in February to meet at El Paso on the 1st of November following. This is wholly unfounded, as I can readily show. In a letter addressed by me to the Department, under date of February 3, 1850, (which I find in the printed document before me,) and which was on file at the time this complaint was made, I used the following language:



"The Joint Commission to run and mark the boundary between the United States and the territories of Mexico, have agreed to adjourn to meet again at El Paso in the State of Chihuahua, on the first Monday in November next. I desired that the meeting should take place at an earlier day; but as it is understood that during the rainy season in New Mexico—(July, August, and September,)—no successful operations could be carried on in the field, nothing perhaps would be lost by the delay."

Now, sir, there was the distinct declaration made in that letter which was on file in the Department at the time, that I had desired that an earlier day should be fixed upon for the meeting of the Joint Commission. Such was the fact. In fixing upon the time for adjournment, I proposed July. General Garcia Condé insisted on November, as it was impossible to carry on field operations during the summer months; and I confess that I was therefore struck with surprise, that the Mexican Minister should have addressed a letter to the Secretary of State, complaining of my delay! The journal of the Joint Commission will explain the whole matter. It reads thus—

"It was determined, as nothing remains to be done on this side of the line, except that which has already been provided for, and as it is impracticable, in the present condition of California, to advance from this direction beyond the mouth of the Gila, and towards the frontier of New Mexico, that the Commission should adjourn to meet at El Paso, in the State of Chihuahua, on the first Monday of November next."—*Extract from Journal, 15th Feb., 1850.*

It is true that my drafts had been protested, the appropriation exhausted, and no means whatever left to prosecute the work; still I did not choose to let the Mexican Commissioner know my real situation. I did not choose that he should know of the infamous course pursued by the party in power towards me. I did not choose that he should know that my drafts, drawn in conformity with instructions, and within the appropriation, had been protested, and that my party was suffering for their pay. Hence it was, as the journal shows, it was mutually agreed to adjourn, and for the reasons stated in the extract which I have just read. I had too much pride as an American to confess my inability, for want of funds, to go on with the work.

Mr. PRATT. Mr. President, the chairman of the Committee on Finance called the Senator from Rhode Island to order, because he was speaking of a subject not connected with the amendment.

Mr. WELLER. My proposition is to strike out the appropriation for the boundary, and that brings up the whole question.

Mr. PRATT. I think the honorable Senator is out of order. I think the rules of the Senate ought to be applied to one side of the Chamber as well as the other.

The PRESIDING OFFICER. (Mr. BRIGHT in the chair.) It is the impression of the Chair that the debate has taken a very wide range; but the Senate must judge whether or not the Senator from California is in order.

Mr. PRATT. I think that it is the duty of the Chair to judge.

The PRESIDING OFFICER. Then the Chair feels constrained to say that the whole debate has gone beyond the bounds of order.

Mr. WELLER. I am compelled to submit to the decision of the Chair, of course; but I think it is very remarkable that I should not be allowed to proceed. I have shown, however, by the record, that the charge of the Mexican Minister

against me is wholly unfounded. There were many things introduced by the Senator from Maryland [Mr. PEARCE] connected with this Administration so far as this boundary survey is concerned, to which I desire to refer.

Mr. PRATT. Mr. President—

Mr. WELLER. I do not wish to be interrupted.

Mr. PRATT. I choose to interrupt the Senator. I rise to a point of order. If the decision of the Chair is to be conformed to, the Senator from California must conform to it as well as the rest of us. I do not see why he should say to me that he did not choose to be interrupted when my object must be evident to everybody. I listen to the Senator with as much pleasure as to any one, but I think that at this time of the night, when it is near eleven o'clock, it is of no use to be going into these questions. I listened to the gentleman attentively for four hours in defending himself, and I must say that he did defend himself very successfully against the charges which had been brought against him. But I do not want a repetition of these matters to-night, at this late hour.

Mr. WELLER. The gentleman has exaggerated the length of time which it took me to defend myself. I believe I never spoke four hours in my life at one time; and I am sure I never occupied more than two hours in addressing the Senate. Besides, I am not responding to the charges to which I then replied.

Mr. PRATT. Then I made a small mistake as to time; that is all.

Mr. WELLER. I ask no exemption from the rules by which other Senators are governed, and will put myself in order by speaking to the point that is raised by the amendment. If I were to attempt to discuss the questions presented here by the amendment proposed by the Senator from Virginia, I should occupy much more time than I would have occupied in explaining a matter somewhat personal to myself. It is not often that Senators are interrupted here, when they are speaking of matters in which their own honor or their own reputation is involved.

I wish to say a word or two to the Senator from Maryland who sits furthest from me, [Mr. PEARCE.] I agree with him that there is a distinction between the Commissioner and the Surveyor, but I should never have undertaken, as Commissioner on that boundary, to have determined any point on that line without consulting with the Surveyor. His advice would have been implicitly relied upon, unless it was plainly and palpably wrong. The instructions to which the Senator referred, places the Commissioner at the head, and thus makes a distinct difference between the two officers. Under date of January 24, 1849, (the first instructions,) you will find that in organizing the Commission, Secretary Buchanan says:

"You are referred for any information which you may deem necessary, to Andrew B. Gray, Esq., who has been appointed Surveyor under the treaty."

It certainly was the intention of the Department to draw a distinction between the power of the Commissioner and that of the Surveyor. I considered myself as the head of the Commission—no doubt about that. I held myself responsible for the movements of all the parties who went out into the field; but I relied implicitly on the judg-



ment of the Surveyor for the determination of any point upon the face of the earth in the running of the boundary. So I relied implicitly upon the chief astronomer in determining the geographical position of any point desired. The one had charge of the linear surveys—the other of the astronomical lines.

I have perhaps detained the Senate too long. I regret very much that I have been compelled to inflict upon my friend from Maryland [Mr. PRATT] the remarks which I have made. I considered it necessary, and that is reason enough so far as I am concerned. I am sure that when he gets up in the Senate to speak of a matter in which his own reputation is involved, or where he has been grossly misrepresented at the bar of public opinion, I shall interpose no objection to his proceeding. In this respect I will return good for evil.

### THE FUGITIVE SLAVE LAW.

THURSDAY, August 26, 1852.

Mr. SUMNER submitted the following amendment to the Civil and Diplomatic Appropriation Bill:

*Provided*, That no such allowance shall be authorized for expense incurred in executing the act of September 18, 1850, for the surrender of fugitives from service or labor, which said act is hereby repealed.

Mr. WELLER. Mr. President, I certainly do not desire to weary the Senate, at this late hour, by attempting to discuss the question which has been obtruded upon it to day. But I may be allowed briefly to express my opinion, as I am now, for the first time, called on to vote upon it in the Senate.

I will say, sir, at the outset, that this is the first time in the course of my life that I have listened to the whole of an Abolition speech. I did not know that it was possible that I could endure a speech for over three hours upon the subject of the abolition of slavery. But this oration of the Senator from Massachusetts, [Mr. SUMNER,] to-day, has been so handsomely embellished with poetry, both Latin and English, so full of classical allusions and rhetorical flourishes, as to make it much more palatable than I supposed it could have been made. I do not see what object the Senator from Massachusetts could have had in view unless it was to excite in the free States of this Union a forcible resistance to the enactment of the last Congress known as "the fugitive slave law." In the exercise of that power which is vested in you under the Constitution, you have attempted to give security to one of the institutions that exist in a portion of the States of this Confederacy. Does any man suppose that this Union can be maintained unless every section of it is secured in the enjoyment of its constitutional rights? Can the Union be maintained if one portion of the Confederacy is permitted to trample upon the rights of another? I apprehend it is too late in the day to discuss the constitutionality of the fugitive law. The power of Congress to legislate on the subject is, in my opinion, unquestionable. The former law of 1793, containing provisions similar to those found in this act, was passed by the fathers of the Republic, who understood, perhaps, the Constitution quite as well as the Senator from Massachusetts.

Sir, I look to no "higher law" than the Constitution of the United States in ascertaining the political rights of the members of this Confederacy. I find that here is an institution fastened upon this country, recognized by the Constitution, and I am willing to throw around it all the guarantees necessary to give it protection. Now that Congress, in the exercise of the power conferred by the Constitution, have legislated, and the public mind has become settled down, and there is a peaceable and quiet execution of the law in almost every section of the Union, the Senator from Massachusetts, by an inflammatory speech, indirectly, at least, counsels forcible resistance. Why this attempt to show the resemblance between the fugitive slave law and the stamp act, which our revolutionary fathers resisted? The stamp act was resisted by revolution, by bloodshed.

Mr. SUMNER. The stamp act was not resisted forcibly.

Mr. WELLER. It was one of the acts which brought about the Revolution, which did result in bloodshed. It was one of the acts which our fathers refused to execute. And is the Senator from Massachusetts prepared for this? Does he counsel the people of Massachusetts, as he has to-day, to resist the execution of the law? Does he not know that, if his counsel is taken, bloodshed is inevitable? Sir, I would rather be the lowest and humblest slave in all the land, than to have the blood of murdered men upon my hands. If the constituents of the Senator from Massachusetts follow his direction, if they obey his counsels, murder, I repeat, is inevitable; and upon your hands, sir, ay, upon your hands, [addressing Mr. SUMNER,] must rest the blood of those murdered men. Are you prepared for that? Would your conscience sustain you in this? This forcible resistance is not only calculated to strike at the very foundation of our republican institutions by dissolving the Union, but to bring upon the head of the learned Senator from Massachusetts the blood of murdered men. He who counsels murder is himself a murderer! Does he think that any officer, who is charged with the execution of the law of the land, will not execute it? Does he not know that force will be met by force? Does he approve of the murders at Christiana? Would a repetition of that horrible tragedy gratify his taste?

The Senator from Massachusetts has denounced the slave-hunter as if he were a monster of most hideous mien! Who is the "slave-hunter?" A man who resides in one of the States of this Union, in the possession of certain property—property around which the guarantees of legislation have been thrown. That property escapes into a free State, and the owner pursues it. He goes, then, under the law of Congress, for the purpose of recovering that which is regarded as property; and the Senator counsels the good people of Massachusetts to regard that law as similar to the stamp act, and to resort to revolution in order to resist it! Does the Senator fully comprehend and properly appreciate the responsibility resting upon him?

Mr. SUMNER. Allow me to correct the Senator. I run a parallel between the slave act and the stamp act; and in doing that I showed historically how our fathers opposed the stamp act, and my language was precisely this: That they

rallied the country in *peaceful phalanx against the execution of the act*; that, within the bounds of the law and the Constitution, to that object they dedicated the patriot energies of the land. Such was the language I employed, as near as I can recollect; and let me say, that not one word has fallen from my lips to-day, suggesting, in any way, a resort to force.

Mr. WELLER. Then I entirely misunderstood the character of his speech, and the whole tenor of his oration.

Mr. SUMNER. Most certainly you did.

Mr. WELLER. Then I must plead guilty to the humiliating charge of not being able to comprehend the English language. My friend from North Carolina [Mr. BADGER] read extracts from a speech of the Senator from Massachusetts, delivered before he came here, in which, while he seems to have said ironically, "I do not counsel you to resistance," uses language calculated to lead directly to the forcible resistance of the law. If that is not to be inferred from his speech to-day; if any other construction can be fairly placed upon it, then I am unable to understand the force of English words. If, as he affirms, this act of Congress is a violation of the law of God, of the Constitution of the United States, a "wicked, infamous, devilish law, abhorrent to every principle of religion and morality," then a forcible resistance would be justifiable.

So that the Senator cannot escape from the conclusion. But, Mr. President, I hold that it is not only your duty to throw around this institution of slavery all the guarantees which legislation demands, in accordance with the power given by the Constitution, but you are bound as good citizens to avoid all agitation of that question in the free States. You are bound to prevent as far as possible any state of feeling from being engendered calculated to prevent a just and fair execution of the law. You are under a solemn obligation as citizens of the Republic to abstain from pursuing any course in the free States which is calculated to defeat the recovery of the property which may escape from the owner. You do not legislate upon the subject, it is true. You pass no law in Massachusetts prohibiting the slave-owner from going there in pursuit of his property—and why? Because you know that the Supreme Court of the United States would declare that all that sort of legislation was unconstitutional and void. But you do more; you manufacture by the sort of speeches we have heard here to-day, a state of public feeling which more effectually shuts out the slaveholder than any legislation you could adopt. Is that good faith amongst men and amongst States, all confederated together in one common Union? Does not common honesty require that we shall pursue that course toward each other which is calculated to preserve the peace and quiet of the whole?

But, Mr. President, I do not intend to discuss this subject; I only rose to express briefly my opinions, and to give utterance to the feelings of my heart. Perhaps it was not necessary that I should have expressed them—certainly not with regard to those gentlemen with whom I have been associated in public life, and to whom I am personally known. My opinions upon the subject have been well understood by them. I avowed them in 1848, when I had the high satisfaction of

being beaten for Governor in the State of Ohio. Upon the Western Reserve, the hot-bed of abolitionism—that section of my native State where the sentiments avowed by the Senator from Massachusetts will be appreciated—there I told his Abolition friends that if I were elected by two votes, and ascertained that two abolitionists had voted for me, I would resign the office and go home. You may infer from that, sir, what my sentiments have been toward the Abolitionists. And now, sir, let me say in *conclusion*, that I am content with the Constitution as it is. It has made us a great and prosperous nation—a happy and free people—contented at home, respected abroad. I desire to devote all the energies of my soul to its perpetuity; but I cannot see how it can be perpetuated except by securing to each State the undisturbed enjoyment of its constitutional rights.

## RIVER AND HARBOR BILL.

TUESDAY, August 24, 1852.

The River and Harbor Bill being under consideration—

Mr. WELLER said: I desire to say a word or two before the question is taken. I know that Senators are exceedingly anxious to vote, and I shall not detain them long. I merely rise for the purpose of stating my position in as few words as possible. I have never been very friendly to this system of internal improvements by the Federal Government, even as advocated by a considerable portion of my political friends. There are Senators on this floor much more latitudinous in their construction of the Federal Constitution than I am. When I was a Representative in the other branch of Congress, I felt myself bound by convictions of duty to vote uniformly against appropriations to improvements which may be regarded as local in their character. I have seen nothing to induce me to change the opinion which I then entertained; but on the contrary, the experience of the past few years has demonstrated satisfactorily to my mind that in order to preserve the peace and quiet of this Union, aside from constitutional obligations, it is of the last importance that this question of internal improvement should be taken out of the arena of Federal politics. If I had been here, therefore, on yesterday, I should have voted for the proposition introduced by my friend from Illinois, [Mr. DOUGLAS,] for I hold that man a public benefactor who takes out of the arena of Federal politics any one of those questions which are calculated in their nature to divide and distract the people. He who can diminish the number of questions upon which the States are divided, is entitled to the thanks of every well-wisher of the Republic. A policy which prevents as much as possible the States from being brought in collision with each other commands my support.

Sir, this question above all others, in my judgment, is calculated to disturb the peace and harmony of the States. Just so long as the General Government exercises the power of carrying on a system of internal improvements in the States by appropriations from the Federal Treasury, just so long must there be a struggle between the States as to the amount of money which they shall receive. You make the States the mere stipendiaries of the Federal Government. We have seen, during the progress of this bill through the Senate,



one Senator reproaching another for having obtained for his State more than its proper proportion of Federal plunder! Such a contest is the necessary result of the system. The smaller States may contribute more than their share to the Federal Treasury, but the larger ones will take care to use their numbers in the other branch of Congress to appropriate it within their own limits. In other words, you may find California exceedingly useful in replenishing your Treasury by contributing more than \$3,000,000 per year, but when the "grabbing" comes for internal improvements, the great States of New York, Pennsylvania, and Ohio, will take care to demand the lion's share. In this way the people of the small States, through their commerce, may be taxed, and thus compelled to carry on a system of internal improvements within the limits of the larger ones. This, in my opinion, is calculated to engender bad feeling, and so lessen the affection which ought to exist amongst theseveral members of this Confederacy. It would, perhaps, be impossible to adopt any system which would not operate unjustly upon some portions of the Republic. This must lead to dissensions difficult to be reconciled—to quarrels disastrous in their results.

Sir, this is inevitable under that system. If the General Government is to engage in a system of internal improvements of a local character, you bring the States directly in conflict with each other; you produce bitterness of feeling, which, in the end, must, as I have already said, alienate them from each other. This I hold to be the necessary result. How long do you suppose the Government will stand after the States have lost all affection for each other? Destroy that bond of love, of sympathy, which now binds them together, and the Union will soon cease to exist. A scramble for the public money will soon place the States in antagonism to each other.

With that party to which I belong, or at least that portion of the Democratic party who believe in extending our institutions until they have covered the whole American continent, it is of the last importance that we should confine the Federal Government to the few powers that have been delegated to it by the Constitution. Sir, at an early age in the history of this Republic, it was supposed that, however well adapted our form of government was to the control of a small portion of territory, yet by extending its limits and bringing into the Union antagonistical States, or at all events, States whose interests were, to some extent, in conflict with each other, you would endanger the Government and weaken the bond that bound the States together. If the doctrine of the Whig party were carried out, it would be dangerous. I grant you, to enlarge the number of States; but, under the Democratic doctrine, if you confine the General Government to the few and simple powers given to it by the Constitution, and if you take care that every State in the Union *studiously abstains from intermeddling with the affairs of their neighbors*, you may go on and increase the number of States until you have covered the whole American continent, and the Union will be stronger than it is now. But the salvation of the whole depends upon this. Therefore, if I believed in this extended system of internal improvements by the General Government within the States, I should deprecate the extension of our territory, because, when you bring

those States together with conflicting interests, it will be almost impossible to adopt a system of improvements which shall do justice to each, and thus preserve the peace and the harmony of the whole. But, sir, if you leave this question to the States, if you give them, as was proposed by my friend from Illinois, power to levy tonnage duties for the purpose of improving their harbors and navigable rivers within their limits, you would take away from the Federal Government one of those questions which, in my judgment, more than any other, is calculated to divide and distract the people of this Union.

It was for that reason that I was anxious to have recorded my vote for the proposition of the Senator from Illinois. There are many States in this Union that have no harbors, no navigable rivers, and it is somewhat difficult to explain to the Representatives of those States how it is that they are directly interested in the improvement of harbors and of rivers within the limits of other States. For instance, it is a very difficult matter to satisfy my friend from South Carolina [Mr. BUTLER] that it is right to take a portion of the Federal funds which belong to his people, and appropriate them to the improvement of a harbor or river in the State of Ohio. It is wrong in principle. I am, however, in favor of those improvements which are of a general and national character, and calculated, in their nature, to bind the States more closely together. The construction of a great national railroad, connecting the Atlantic with our Pacific possessions, whilst it would be clearly within the powers granted to the Federal Government, would bring the remote States into more intimate connection with the central States, and thus lay a permanent foundation for the prosperity and happiness of the people. I trust the day is not far distant when this important national work will be undertaken and completed by the Government.

But whenever the improvement is within the limits of a single State, or wherever the commerce to be affected is local in its character, I do not consider that of such national importance as to justify Congress in appropriating the Federal funds to it. It is better, therefore, in every view of the case, to leave this question to the States; and I trust I shall live to see the day when the principle asserted in the amendment introduced on yesterday by my friend from Illinois, shall be the policy of this Government. But if you are to carry on this system of internal improvements, if it is to be the settled policy of this Government, then, for one, I should be compelled to abandon a favorite policy—I mean the doctrine of extending the limits of this Union; for I should be afraid to increase the number of States where such a system was recognized by the Government. There are already sufficient elements of discord to endanger our safety, and if this policy, which must necessarily be partial in its operations, were introduced, it would be difficult, indeed, to preserve the Union. In such an event, the larger the number of States the more difficult it would be to reconcile conflicting interests and maintain the Union. As an extensionist, as a Union man, I am opposed to this policy.

I shall, without the slightest hesitation, vote against this bill. It is true it makes a small appropriation to the improvement of a harbor in the State from which I come; but the fact cannot be concealed that this bill is the entering wedge to a



system of local improvements which, if pursued, must bankrupt the Treasury, array the States against each other, and ultimately divide the Union. This bill makes appropriations to works of internal improvements which are, in my judgment, exclusively local in their character, and which are not calculated to advance the general interests of the people.

The power of Congress to improve harbors, or to prosecute a national work which in its nature is calculated to bring distant States more closely together, and thus strengthen the ligaments which bind them into one Union, is undeniable. So long as the power is confined to these general and national works, the most beneficial results may be anticipated; but when it is carried within the limits of a State by the Federal Government, and thus extended to local improvements, it must be disastrous.

If you will authorize the State of California to impose tonnage duties upon all vessels coming into her harbors or navigating her rivers, we would soon have all we desire. With the duties thus collected, we could remove all the obstructions in our navigable rivers, and make our harbors what the commerce of the country demands. Under such a system, those who use your harbors and rivers would pay for their improvement. Where the commerce of the country required harbors, there the best would be found; and millions would not—as has been the case—be expended in efforts to make them where nature never intended there should be any.

#### LAND CLAIMS IN CALIFORNIA.

MONDAY, August 2, 1852.

The Bill to ascertain and settle Private Land Claims in California, being before the Senate, in reply to some remarks of Mr. GWIN,

Mr. WELLER said: As my colleague has given notice that he does not intend to press the consideration of this bill to-day, I will content myself on this occasion by saying that I regret very much that I am not able to bring my mind to the conclusion that this bill is calculated to advance the real interests of the people of California. I cannot get rid of the opinion that the first section of the bill conflicts with the treaty of Guadalupe Hidalgo. I cannot divest my mind, I say, of that impression, because, if these claims which may be presented before the land commissioners are valid, they should be confirmed. In the decision of that question—the question of the validity of the claims—the board must be governed by the rules laid down by the act of Congress passed on the 3d March, 1851. This requires that the board shall be governed by the treaty of Guadalupe Hidalgo, by the law of nations, together with the usages and customs formerly existing under the Spanish and Mexican Governments, and by the principles of justice and equity. I can readily imagine that a claim may be presented to the board of commissioners, which is incomplete, in which the grantee may not have performed all the requirements of the Spanish and Mexican laws; but that person may have a just and equitable title through the occupation, improvement, and enjoyment of that which is covered by the original grant. I believe that after a grant has been made to any person—no matter what may be the extent of that

grant—if he has taken possession in good faith, and enjoyed, improved, and occupied it, thus substantially complying with the terms of the grant, he is entitled to have it confirmed. The Government of the United States should do what justice and honesty would have required from the Mexican Government. If that Government, under the usages and customs which prevailed, would have been required to secure the land to the grantee, then our Government is bound to respect it. The extent of the grant cannot affect the question.

I need not say that I believe it would be manifestly unwise for the Government of the United States to make large grants of the public domain to individuals. I am entirely opposed to that policy, and the records of the past will show, so far as I have been connected with public affairs, that no one has been more favorable to those measures which would tend to the benefit of the actual settlers than I have. My opinions were fully expressed more than eleven years ago, on that subject, in the House of Representatives, of which I was then a member.

The following is an extract from a speech made by me in the House of Representatives, February 3, 1841, (Congressional Appendix, vol. 9, page 145:)

“There is another subject introduced by the gentleman from Tennessee, [Mr. BELL,] to which I beg leave to refer. I allude to the ‘prospective preemption law,’ which I rejoice to learn was passed by the Democratic party in the Senate on yesterday, and is now in this House for its action. It has been denounced here as a ‘humbug, designed to catch votes,’ and gentlemen have volunteered the assertion that we did not desire its passage. Now, sir, what is this bill? It is simply a proposition to give the settler upon the public lands the right of preemption, and differs only from the law heretofore passed in the fact that it is *prospective* in its operation. It does not propose to give the public domain to the settler, but to allow him to take that portion on which he has settled and built a log-cabin at the Government price, within a limited period. It is a measure for the benefit of the poor man—for the humble tenants of the log cabins; for those who may be driven by poverty from the older States, and who may go with no bank-bills perhaps in their pockets, but with strong arms and honest hearts to hunt for themselves and their families a home in the far West. Sir, if this was a measure for the advancement of the pecuniary interest of speculators or bankers, it would not meet with the opposition it does from Whig gentlemen. Although loud in their professions of attachment to the poor man when office is to be obtained, in their legislation little regard is paid to their interests. Gentlemen have denounced these settlers as ‘lawless squatters,’ and ‘land pirates,’ and told us that the United States marshal ought to be sent with a military force to dispossess them. Sir, if a banker (as is the case every day) swindles the community out of millions, the act goes unwhipped of justice; but if a poor man settles down upon the public land, and endeavors by his industry and frugality to procure a livelihood for his children, you would raise a military force to turn him off and deprive him of the little improvement he had made. This may be Whig policy, and Whig justice; but I venture the assertion, the American people are not prepared for such doctrine. In the estimation of these Whig orators, to cut down a few trees in a dense and almost unbroken forest belonging to the Government, for the purpose of cultivating a few acres of corn, is a most heinous offense; whilst they suffer the bankers to violate the laws, make sport of their legislation, acquire wealth by their villainies, and ride in proud triumph over the ruin and desolation of the laboring man. Sir, there is a point beyond which forbearance ceases to be a virtue; and the time will come when this great money power, which is eating out the substance of the people, must be checked by legislation, or the land will be deluged in blood. The day of retribution is at hand, and we be to that legislator who seeks to aggrandise the few by the oppression of the many.

“The preemption bill is a favorite measure with me, and enjoys all the sympathies of my nature. It affords me the most sincere pleasure to do all in my power to advance the

interests of the hardy and enterprising emigrant, who, abandoning the home of his fathers, the worn-out, worn-eaten land of his nativity, has taken up his abode in the rich valleys of the far West. Sir, I would rather be recognized as the champion of such men than hold the highest office within the gift of my country. Let these men have the encouragement of the Government—the promise that within a limited period they shall be permitted, at the present price, to purchase the land on which they reside; and with industry and enterprise, the rude cabin will soon give way to the comfortable dwelling, and the “wilderness be made to bloom and blossom as the rose.” By the passage of this act, many in the old States of this Union, who now feel from day to day the cutting lash of penury and want, and who have families growing up around them without the ability to supply them with even the necessities of life, would emigrate to the West, settle down on your lands, and soon surround themselves with all the comforts of life. In this way you would not only contribute to their happiness, but in making them the owners of the soil, increase and strengthen their attachment to the Union, and thus lay the foundation for the permanent prosperity of the country broad and deep in the affections of the people. I would much rather, for my own part, make a gift of the public domain to *actual bona fide* settlers who would improve the country, than to see it falling at the Government price into the hands of speculators.”

But that policy which would be unwise and impolitic in the present condition of the affairs of this Government, might have been both wise and politic in California when under the dominion of Spain. It was a very difficult thing to settle that country at that time, as well as when under the government of Mexico; and it might be necessary to the cultivation of these lands that large grants should be made, for they were almost worthless, and used chiefly for pastoral or grazing purposes. Such a policy, however necessary or proper then, would, beyond all question, be unwise and impolitic now. The wants and necessities of our people demand an entirely different policy, as we are desirous to have as many landholders as possible.

By the terms of the treaty of peace, we agreed to see that the people were protected in the enjoyment of all their just rights. We have undertaken, by the terms of the treaty of Guadalupe Hidalgo, to say that the people in California shall be protected in the free enjoyment of their legal and equitable rights; that the title of their property shall not be disturbed; in other words, that property which they fairly and justly held under Mexico, should be respected by us.

The first provision of the bill which my colleague has submitted, is, that although the title may be confirmed, if there be a defect or any informality in that title, although the Board of Commissioners may have decided in favor of it, upon the principles of equity, yet if the settler has occupied and improved eighty acres, he shall hold it; and the grantee shall have a floating title given him to eighty acres elsewhere. I think this would violate the spirit, if not the letter of that treaty which we made with Mexico. Now, I think if these grants are confirmed, the grantee is entitled to the possession of the particular land which is covered by that title. There may be reasons why the original grant would be desired; for we all know that we attach oftentimes a fictitious value to property because of its location, its natural position, or simply because it suits us. If these grants have been made in good faith by the proper authority, and have been occupied and enjoyed by the proprietor, although he may not have complied with all the technical provisions of the law, I hold, that it is the duty of the Government

to protect him in his right to the particular land which is covered by his title.

There is the point in regard to which my colleague and myself differ. There may be, and probably there are, fraudulent grants in that country. There are many grants, I know, in California, the boundaries of which are indefinite, undefined, and uncertain; and wherever a discretion is left to be exercised in adjusting the boundaries, I would have that discretion so exercised as to bring down the grants to the very smallest portion, acting upon the principle that it is against the public policy that land should be held in large tracts.

But if the title be a good one, you are under the highest of all obligations of a political character, the pledged faith of the Government, to confirm it. If it be fraudulent, or tainted with fraud, unjust, or of a doubtful character, it should be rejected. A Government, no more than an individual, can maintain its character for integrity by taking advantage of a mere technical defect in a title.

There are titles which will be found incomplete in some particulars. If there are substantial defects the title must be rejected. In regard to the grant made in the Suisun valley, to which my colleague has referred, I have only a remark to make. There are between two and three hundred settlers there, and I believe the grant contains some twenty-four thousand acres, a considerable portion of which has been settled upon, and they have had the undisturbed enjoyment of all the fruits of that rich and valuable land for two years. But I will not discuss the title to this grant, for the reason that I am in the position of counsel myself for the settlers, and must, as such, resist in the courts the confirmation of it. It is not becoming in me, therefore, to express my opinion as to the legality or validity of that title. But if it be a good title, made by competent authority, and the grantee took possession and improved in good faith, and has complied with all the substantial requisitions of the law, that board must confirm it. But what will be his position under this bill if his title should be confirmed? He will find all the land susceptible of cultivation in the occupancy of other persons, and he must take his certificate for twenty-four thousand acres, (if that be the amount of the grant,) and locate it upon the public domain. Could he find land as rich and valuable unoccupied elsewhere in that State? I am confident he could not. Would this be a substantial compliance with the terms of the treaty, “to maintain and protect him in the free enjoyment of his property?” I think not. To compel him to locate lands elsewhere than the place covered by his grant would, in my judgment, be a violation of our treaty obligations. It would be a breach of pledged faith.

This is the first time I have been compelled, from a sense of duty, to differ with my colleague, whose time and energies have been devoted to our State. There is much, very much, in the argument of my colleague which receives my cordial assent. I know the difficulties under which we labor in that country, and it is natural that we should sometimes be unable to see alike in respect to the best method of meeting those difficulties. But I do not wish to discuss this subject unless it should be pressed upon the Senate. For the respondent I only desire to put myself right before our common constituency.













